

First Supplement to Memorandum 98-21

Environment Code: Conforming Revisions for Division 3 (California Environmental Quality Act)

This supplemental memorandum presents conforming revisions in state statutes to reflect relocation of the California Environmental Quality Act (CEQA) from the Public Resources Code to the Environment Code.

In excess of 200 state statutes include cross-references to CEQA, which should be corrected. A complete list of the affected statutes is attached to this memorandum as an Exhibit. However, due to the large volume (140-plus pages), and routine nature, of these corrective provisions, we do not reproduce them all here. The complete text may be accessed electronically at the Law Revision Commission's web site: <http://www.clrc.ca.gov>

Set out below is a sampling of typical conforming revisions for the CEQA relocation.

BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 11018.14 (amended). Commissioner not responsible agency

SEC. _____. Section 11018.14 of the Business and Professions Code is amended to read:

11018.14. The commissioner shall not be a responsible agency for purposes of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000), ~~Public Resources~~ Environment Code). Receipt by the commissioner of a copy of an environmental impact report or negative declaration prepared pursuant to the California Environmental Quality Act shall be conclusive evidence of compliance with that act for purposes of issuing a subdivision public report.

Comment. Section 11018.14 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

EDUCATION CODE

Educ. Code § 17025 (amended). Submission and approval of plans

SEC. _____. Section 17025 of the Education Code is amended to read:

17025. (a) The board shall not authorize a contract for the construction of any new school, or for the addition to, or reconstruction or alteration of, any existing building, for lease-purchase to any school district unless the applicant district has submitted plans therefor to the Department of General Services and obtained the written approval of the department pursuant to Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5.

(b) The board, or the self-certifying district, as applicable, shall certify the compliance of a project with Sections 17212, 17212.5, and 17213, with Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, and with any other law that applies to that project, but may require documentation of compliance only as to requirements that are applicable under this chapter. Notwithstanding any other law, for purposes of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, the applicant district shall be deemed to be the “lead agency” with regard to any project funded for that district under this chapter.

Comment. Section 17025 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

FISH AND GAME CODE

Fish & Game Code § 711.2 (amended). Definitions

SEC. _____. Section 711.2 of the Fish and Game Code is amended to read:

711.2. (a) For purposes of this article, unless the context otherwise requires, “wildlife” means and includes all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability and “project” has the same meaning as defined in Section 21065 of the ~~Public Resources~~ Environment Code.

(b) For purposes of this article, “person” includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies of those entities.

Comment. Section 711.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

FOOD AND AGRICULTURAL CODE

Food & Agric. Code § 3302 (amended). Cal Expo flood plain

SEC. _____. Section 3302 of the Food and Agricultural Code is amended to read:

3302. No changes shall be made in the uses of the flood plain on California Exposition and State Fair property until the board has adopted a management plan for the flood plain area which complies with the law concerning Bushy Lake Preservation in Chapter 9 (commencing with Section 5830) of Division 5 of the

Public Resources Code and with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code).

Comment. Section 3302 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

HARBORS AND NAVIGATION CODE

Harb. & Nav. Code § 64.5 (amended). Clear lake aquatic weed control

SEC. _____. Section 64.5 of the Harbors and Navigation Code is amended to read:

64.5. The department shall make a grant of funds to Lake County to conduct a pilot project until December 31, 1999, of aquatic weed control on Clear Lake in Lake County under the following conditions:

(a) Lake County has met the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code) and, by mutual agreement with the department, agrees to pay a percentage of the cost of the project not to exceed 25 percent.

(b) The aquatic weeds are negatively impacting recreational boating.

(c) The department has received a request from the county agricultural commissioner of Lake County requesting the grant.

(d) Any chemical treatment of aquatic weeds prescribed for the pilot project on Clear Lake, other than those used for the hydrilla eradication or control program pursuant to Article 9 (commencing with Section 6048) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code by the Department of Food and Agriculture, shall be coordinated with the Department of Fish and Game as trustee for fish and wildlife resources in that ecosystem.

Comment. Section 64.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

PENAL CODE

Penal Code § 1174.3 (amended). Facility design

SEC. _____. Section 1174.3 of the Penal Code is amended to read:

1174.3. (a) The department shall ensure that the facility designs provide adequate space to carry out this chapter, including the capability for nonsecure housing, programming, child care, food services, treatment services, educational or vocational services, intensive day treatment, and transitional living skills services.

(b) The agency selected to operate the program shall administer and operate the center and program consistent with the criteria set forth in this chapter and any criteria established by the department. These responsibilities shall include maintenance and compliance with all laws, regulations, and health standards. The department shall contract to reimburse the agency selected to operate this program

for women who would otherwise be sentenced to state prison based upon actual costs not provided by other funding sources.

(c) Notwithstanding any other law, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code shall not apply to any facility used for multiperson residential use in the last five years, including, but not limited to, motels, hotels, long-term care facilities, apartment buildings, and rooming houses, or to any project for which facilities intended to house no more than 75 women and children are constructed or leased pursuant to this chapter.

(d) Proposals submitted pursuant to this chapter are exempt from approval and submittal of plans and specifications to the Joint Legislative Committee on Prison Construction Operations and other legislative fiscal committees.

Comment. Section 1174.3 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

PUBLIC RESOURCES CODE

Pub. Res. Code § 614 (amended). Implementation of soil conservation plan

SEC. _____. Section 614 of the Public Resources Code is amended to read:

614. (a) In order to implement the soil conservation plan which is adopted by the soil conservation committee, the department shall conduct a study and propose an implementation strategy to meet the intent of the plan. The study shall include, but not be limited to, all of the following:

(1) An assessment of the structural and policy changes needed in the department to carry out the soil conservation plan.

(2) A review of the provisions of Division 9 (commencing with Section 9000) for the purposes of providing a framework for soil conservation administration at the state and local levels.

(3) Recommendations on how the department can best deliver soil conservation services.

The department shall report the results of this study to the Legislature on or before December 1, 1988.

(b) The department shall conduct a study of resource conservation districts in California. The study shall include, but not be limited to, all of the following:

(1) A review of the provisions of Division 9 (commencing with Section 9000) to determine the changes in policy and structure necessary to enable resource conservation districts to better provide soil conservation assistance.

(2) Recommendations on the consolidation and reorganization of resource conservation districts.

The department shall report the result of this study to the Legislature on or before December 1, 1989.

(c) The department shall provide soil conservation advisory services to local governments, land owners, farmers and ranchers, resource conservation districts,

and the general public. The services shall include, but not be limited to, all of the following:

- (1) State level liaison with the resource conservation districts.
- (2) Review of environmental impact reports as required under the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).
- (3) Provision of information on the soil conservation components of the 1985 Food Security Act.
- (4) Assistance to local governments on the development of soil conservation guidelines for general plans.
- (5) Responding to inquiries from the general public.

From funds appropriated for purposes of this section, an amount, not to exceed fifty thousand dollars (\$50,000), shall be utilized for the purposes of this subdivision.

Comment. Section 614 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

STREETS AND HIGHWAYS CODE

Sts. & Hy. Code § 180.2 (amended). Application of CEQA

SEC. _____. Section 180.2 of the Streets and Highways Code is amended to read:

180.2. The following projects under this article shall be considered to be activities under paragraph (4) of subdivision (b) of Section 21080 of the Public Resources Environment Code:

- (a) The structural modification of an existing highway structure or toll bridge.
- (b) The replacement of a highway structure or toll bridge within, or immediately adjacent to, an existing right-of-way.

Comment. Section 180.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

WATER CODE

Water Code § 1013 (amended). Imperial Irrigation District

SEC. _____. Section 1013 of the Water Code is amended to read:

1013. The Imperial Irrigation District, acting under a contract with the United States for diversion and use of Colorado River water or pursuant to the Constitution or to this chapter, or complying with an order of the Secretary of the Interior, a court, or the board, to reduce through conservation measures, the volume of the flow of water directly or indirectly into the Salton Sea, shall not be held liable for any effects to the Salton Sea or its bordering area resulting from the conservation measures.

This section shall not be construed to exempt the Imperial Irrigation District from any requirements established under the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 1013 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

UNCODIFIED ACTS

Antelope Valley Storm Water Conservation and Flood Control District Act § 27 (amended). CEQA applicable

SEC. _____. Section 27 of the Antelope Valley Storm Water Conservation and Flood Control District Act (Section 1 of Chapter 764 of the Statutes of 1994) is amended to read:

Sec. 27. Nothing in this act is intended to exempt the activities, programs, or projects of the district from the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) where that act is otherwise applicable.

Comment. Section 27 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

Exhibit

This exhibit sets out the table of contents of the conforming revisions necessary for the continuation of the California Environmental Quality Act (CEQA) in Division 3 of the proposed Environment Code. The complete text is available at: <http://www.clrc.ca.gov>.

BUSINESS AND PROFESSIONS CODE	1
Bus. & Prof. Code § 11018.14 (amended). Commissioner not responsible agency	1
CODE OF CIVIL PROCEDURE	1
Code Civ. Proc. § 529.2 (amended). Action to challenge housing project	1
EDUCATION CODE	1
Educ. Code § 17025 (amended). Submission and approval of plans	1
Educ. Code § 17196 (amended). Applicable law	2
Educ. Code § 17213 (amended). Requirements for approval of project	2
Educ. Code § 17621 (amended). Adopting or increasing fee	3
Educ. Code § 17725 (amended). Required approval	4
Educ. Code § 17896 (amended). Applicable law	5
Educ. Code § 35700 (amended). Initiation of action to reorganize district	5
Educ. Code § 39003 (amended). Requirements for approval of project	6
Educ. Code § 94212 (amended). Applicable law	7
FISH AND GAME CODE	7
Fish & Game Code § 711.2 (amended). Definitions	7
Fish & Game Code § 711.4 (amended). Filing fees	7
Fish & Game Code § 711.7 (amended). Trust resources	9
Fish & Game Code § 1015 (amended). Salmon and steelhead resources	9
Fish & Game Code § 1785 (amended). Wetlands mitigation bank site	10
Fish & Game Code § 1802 (amended). Jurisdiction of department	10
Fish & Game Code § 2063 (amended). “Feasible” defined	10
Fish & Game Code § 2064 (amended). “Project” defined	10
Fish & Game Code § 2065 (amended). “State lead agency” defined	10
Fish & Game Code § 2081 (amended). Authorization of acts prohibited by § 2080	11
Fish & Game Code § 2090 (amended). Consultation with department	11
Fish & Game Code § 2092 (amended). Reasonable and prudent alternatives	12
Fish & Game Code § 2093 (amended). Mechanism for informal consultation	13
Fish & Game Code § 2095 (amended). Threatened or endangered species	13
Fish & Game Code § 2627 (amended). Protection of public interest	13
Fish & Game Code § 2794 (amended). Management plan	14
Fish & Game Code § 2799 (amended). CEQA compliance	14
Fish & Game Code § 2825 (amended). Nonregulatory guidelines	14
Fish & Game Code § 5653.9 (amended). Regulations	15
Fish & Game Code § 15101 (amended). Aquaculture facility registration	15
FOOD AND AGRICULTURAL CODE	15
Food & Agric. Code § 3302 (amended). Cal Expo flood plain	15
Food & Agric. Code § 14022 (amended). Pesticide evaluation	16
Food & Agric. Code § 33487 (amended). Dairy farms	16
GOVERNMENT CODE	17

Gov't Code § 5956.6 (amended). Agreements that facilitate projects	17
Gov't Code § 7075 (amended). Applicant's initial study	19
Gov't Code § 7113 (amended). Applicant's initial study	19
Gov't Code § 8162.9 (amended). Development limitations	19
Gov't Code § 8790.41 (amended). Land acquired pursuant to Section 8790.40	20
Gov't Code § 9115 (amended). Legislative office facilities	20
Gov't Code § 9121 (amended). Applicable law	20
Gov't Code § 11011.21 (amended). Surplus property inventory	21
Gov't Code § 14561.3 (amended). Applicable law	24
Gov't Code § 14670.9 (amended). Agnews State Hospital lease	24
Gov't Code § 14670.10 (amended). Sonoma Development Center lease	25
Gov't Code § 15373.9 (amended). Loan or grant application	26
Gov't Code § 15378.6 (amended). Definitions	26
Gov't Code § 15399.55 (amended). Alternative dispute resolution	26
Gov't Code § 15455 (amended). Applicable law	27
Gov't Code § 51119 (amended). Timberland production zone	27
Gov't Code § 51238.1 (amended). Uses on contracted lands	27
Gov't Code § 51282 (amended). Cancellation of contract	28
Gov't Code § 51291 (amended). Public use of land within agricultural preserve	29
Gov't Code § 53080.1 (amended). Adoption or increase of fee	30
Gov't Code § 53096 (amended). Applicability of zoning ordinance	31
Gov't Code § 53395.15 (amended). Infrastructure financing plan	32
Gov't Code § 56428 (amended). Amendments to sphere of influence or urban service area	32
Gov't Code § 56828 (amended). Application to initiate proceedings	33
Gov't Code § 56857 (amended). Request for reconsideration of resolution	34
Gov't Code § 65036 (amended). Legislative intent	35
Gov't Code § 65040 (amended). Office of Planning and Research	35
Gov't Code § 65361 (amended). Extension of time	36
Gov't Code § 65457 (amended). CEQA exemption	37
Gov't Code § 65456 (amended). Specific plan fees	38
Gov't Code § 65457 (amended). CEQA exemption	38
Gov't Code § 65584 (amended). Share of city or county of regional housing needs	39
Gov't Code § 65589.5 (amended). Legislative findings	41
Gov't Code § 65754.5 (amended). Nonconforming housing developments	43
Gov't Code § 65759 (amended). CEQA exemption	44
Gov't Code § 65762 (amended). Applicable law	44
Gov't Code § 65914 (amended). Litigation costs	45
Gov't Code § 65941 (amended). Project application	45
Gov't Code § 65942 (amended). Revision of information and criteria	46
Gov't Code § 65944 (amended). Further information	46
Gov't Code § 65950 (amended). Period for agency action	46
Gov't Code § 65950.1 (amended). Extension of time	47
Gov't Code § 65951 (amended). Combined environmental impact report and statement	47
Gov't Code § 65957.5 (amended). Appeal of subdivision or construction conditions	47
Gov't Code § 65992 (amended). Application of CEQA	48
Gov't Code § 65996 (amended). Mitigation for adequacy of school facilities	48
Gov't Code § 66030 (amended). Legislative findings and intent	48
Gov't Code § 66031 (amended). Mediation	49
Gov't Code § 66452.1 (amended). Time periods	50
Gov't Code § 66452.2 (amended). Time for consideration of tentative map	50
Gov't Code § 66474.01 (amended). Approval of tentative or parcel map	50

Gov't Code § 66498.8 (amended). Ordinances or resolutions to implement chapter	51
Gov't Code § 66666 (amended). Existing regulatory authority	51
Gov't Code § 66682 (amended). White Slough Project	51
Gov't Code § 67675.9 (amended). Closure and reuse of Ford Ord	52
Gov't Code § 91543 (amended). Applicable law	53
HARBORS AND NAVIGATION CODE	53
Harb. & Nav. Code § 64.5 (amended). Clear lake aquatic weed control	53
Harb. & Nav. Code § 76.4 (amended). Loan application	53
Harb. & Nav. Code § 86 (amended). Small craft harbor or boating facility	54
Harb. & Nav. Code § 5955 (amended). Public beaches and inland parks and recreation areas	55
HEALTH AND SAFETY CODE	55
Health & Safety Code § 1597.46 (amended). Large family day care homes	55
Health & Safety Code § 2291.7 (amended). Lake County mosquito abatement districts	56
Health & Safety Code § 17960.1 (amended). Private plan checkers	57
Health & Safety Code § 19837 (amended). Private plan checkers	58
Health & Safety Code § 25174 (amended). Hazardous Waste Control Account	59
Health & Safety Code § 25198.3 (amended). Cooperative agreements	61
Health & Safety Code § 25198.5 (amended). Review of draft tribal and federal permit	63
Health & Safety Code § 25199.7 (amended). Application for hazardous waste facility project	63
Health & Safety Code § 25199.8 (amended). Pendency of CEQA litigation	65
Health & Safety Code § 25199.9 (amended). Appeal of land use decision	66
Health & Safety Code § 25200.11 (amended). Final action on hazardous waste facility permit	67
Health & Safety Code § 25200.12 (amended). Modification to offsite facility	68
Health & Safety Code § 25299.4 (amended). Design and construction standards	69
Health & Safety Code § 25352 (amended). Appropriation of money deposited in state account	70
Health & Safety Code § 25395.11 (amended). Applicable law	70
Health & Safety Code § 33333.3 (amended). Draft environmental impact report	71
Health & Safety Code § 33352 (amended). Report on redevelopment plan	71
Health & Safety Code § 33490 (amended). Implementation plan	72
Health & Safety Code § 33492.18 (amended). CEQA exemption	74
Health & Safety Code § 33492.41 (amended). Redevelopment plan for Norton Air Force Base	75
Health & Safety Code § 33492.65 (amended). Application of CEQA	75
Health & Safety Code § 33492.94 (amended). Mare Island Redevelopment Project Area	76
Health & Safety Code § 33492.110 (amended). CEQA exemption	77
Health & Safety Code § 33852 (amended). CEQA exemption	77
Health & Safety Code § 34005 (amended). CEQA exemption	77
Health & Safety Code § 40717.6 (amended). Congestion management program	78
Health & Safety Code § 42301.3 (amended). Air pollution control equipment installation	79
Health & Safety Code § 44561 (amended). Applicable law	81
Health & Safety Code § 56040 (amended). Large scale urban development	81
Health & Safety Code § 57053 (amended). Consolidated permit agency	81
Health & Safety Code § 59004 (amended). Functions and responsibilities of office	83
Health & Safety Code § 116760.50 (amended). Funding criteria	83
PENAL CODE	83
Penal Code § 1174.3 (amended). Facility design	83

Penal Code § 2045.11 (amended). Facility level	84
Penal Code § 4497.02 (amended). Application of CEQA	84
Penal Code § 6241 (amended). Substance Abuse Community Correctional Detention Centers Fund	84
Penal Code § 7008 (amended). CEQA exemption	86
Penal Code § 8631 (amended). Applicable law	87
PUBLIC RESOURCES CODE	87
Pub. Res. Code § 614 (amended). Implementation of soil conservation plan	87
Pub. Res. Code § 2714 (amended). Excavation and grading	87
Pub. Res. Code § 2762 (amended). Mineral resource management policies	89
Pub. Res. Code § 2770 (amended). Permit for surface mining operations	90
Pub. Res. Code § 2772 (amended). Reclamation plan	92
Pub. Res. Code § 2774 (amended). Review and approval of plan	93
Pub. Res. Code § 3715.5 (amended). Application of CEQA	94
Pub. Res. Code § 4467 (amended). Elements in plan	95
Pub. Res. Code § 4582.6 (amended). Timber harvesting plan	95
Pub. Res. Code § 4800 (amended). Legislative intent	96
Pub. Res. Code § 5002.2 (amended). Classification or reclassification of unit	96
Pub. Res. Code § 5072.8 (amended). Recreational Trails Fund	97
Pub. Res. Code § 5090.32 (amended). Functions, duties and responsibilities performed by division	98
Pub. Res. Code § 5090.50 (amended). Trails and related uses	98
Pub. Res. Code § 5090.55 (amended). Funding for cooperative agreements	99
Pub. Res. Code § 5096.89 (amended). Application for state grant	99
Pub. Res. Code § 5096.130 (amended). Grant application review	99
Pub. Res. Code § 5096.157 (amended). Local assistance grants	100
Pub. Res. Code § 5096.174 (amended). Grant application evaluation	100
Pub. Res. Code § 5096.236 (amended). Local assistance grant application	100
Pub. Res. Code § 5096.244 (amended). State Coastal Conservancy oversight	101
Pub. Res. Code § 5097.9 (amended). protection of Native American religion	101
Pub. Res. Code § 5097.98 (amended). Native American human remains	102
Pub. Res. Code § 5721 (amended). Grant applications	102
Pub. Res. Code § 5918 (amended). Application of CEQA	103
Pub. Res. Code § 6217 (amended). Deposit of revenues	103
Pub. Res. Code § 6371 (amended). Disposition of lands under State Lands Commission	105
Pub. Res. Code § 6873.2 (amended). Application of CEQA	105
Pub. Res. Code § 8631 (amended). Applicable law	105
Pub. Res. Code § 8710 (amended). Applicable law	105
Pub. Res. Code § 25404 (amended). Cooperation among interested parties	106
Pub. Res. Code § 25519 (amended). Application for certification of site and related facility	106
Pub. Res. Code § 25540.4 (amended). Time for decision	107
Pub. Res. Code § 25541.5 (amended). Regulatory program	108
Pub. Res. Code § 25985 (amended). CEQA exemption	108
Pub. Res. Code § 26559 (amended). Application of CEQA	108
Pub. Res. Code § 26601 (amended). Application of CEQA	108
Pub. Res. Code § 30600 (amended). Coastal development permit	108
Pub. Res. Code § 30718 (amended). Approved developments forwarded to commission	109
Pub. Res. Code § 33911 (amended). CEQA exemption	109
Pub. Res. Code § 41000 (amended). Source reduction and recycling element	110
Pub. Res. Code § 41300 (amended). Source reduction and recycling element	110
Pub. Res. Code § 41500 (amended). Household hazardous waste element	111

Pub. Res. Code § 41510 (amended). Household hazardous waste element	111
Pub. Res. Code § 41735 (amended). CEQA exemption	112
Pub. Res. Code § 41783 (amended). Source reduction and recycling element	112
Pub. Res. Code § 42812 (amended). CEQA exemption	113
Pub. Res. Code § 43200 (amended). Certification regulations	113
Pub. Res. Code § 44002 (amended). Solid waste facilities permit	114
Pub. Res. Code § 44004 (amended). Change in design or operation of facility	114
Pub. Res. Code § 44005 (amended). Encumbrance, sale, transfer or conveyance of facility or site	115
Pub. Res. Code § 44203 (amended). Cooperative agreements	115
Pub. Res. Code § 44205 (amended). Review of draft tribal and federal permit	117
Pub. Res. Code § 44300 (amended). Permit denial	117
Pub. Res. Code § 71012 (amended). “Environmental permit” defined	118
Pub. Res. Code § 71020 (amended). Designation of consolidated permit agency	118
Pub. Res. Code § 71021 (amended). Request for designation of consolidated permit agency	119
Pub. Res. Code § 71035.6 (amended). Determination of completeness and adequacy	120
PUBLIC UTILITIES CODE	121
Pub. Util. Code § 21632 (amended). Acquisition of existing airports and air navigation facilities	121
Pub. Util. Code § 21679 (amended). Court proceedings on zoning	122
Pub. Util. Code § 21679.5 (amended). Moratorium on proceedings	122
Pub. Util. Code § 99624 (amended). Alameda-San Pedro branch rail line	123
Pub. Util. Code § 99686 (amended). Application of CEQA	123
REVENUE AND TAXATION CODE	124
Rev. & Tax. Code § 17053.66 (amended). Credit against net tax	124
Rev. & Tax. Code § 23666 (amended). Credit against net tax	126
STREETS AND HIGHWAYS CODE	128
Sts. & Hy. Code § 180.2 (amended). Application of CEQA	128
Sts. & Hy. Code § 229.3 (amended). Application of CEQA	128
Sts. & Hy. Code § 671.5 (amended). Encroachment permits	129
WATER CODE	129
Water Code § 1013 (amended). Imperial Irrigation District	129
Water Code § 1029 (amended). Application of CEQA	129
Water Code § 1275 (amended). Additional information	130
Water Code § 1335 (amended). Failure to provide information	130
Water Code § 1729 (amended). CEQA exemption	130
Water Code § 8730.1 (amended). Board action on applications	131
Water Code § 10652 (amended). Application of CEQA	131
Water Code § 10851 (amended). Application of CEQA	131
Water Code § 10910 (amended). Environmental impact reports	131
Water Code § 10911 (amended). Plan for additional water supplies	132
Water Code § 12669 (amended). Fresno County Stream Group Flood Control Project	133
Water Code § 12994 (amended). Emergency levee work	133
Water Code § 13264 (amended). Changes in waste discharge	134
Water Code § 13274 (amended). General waste discharge requirements	135
Water Code § 13389 (amended). Application of CEQA	136
Water Code § 13398.5 (amended). Duties of oversight agency	136
Water Code § 13552.4 (amended). Recycled water for irrigation of residential landscaping	136

Water Code § 13552.8 (amended). Recycled water in floor trap priming, cooling towers and air conditioning devices	137
Water Code § 13554 (amended). Recycled water for toilet and urinal flushing	137
Water Code § 55338 (amended). Water needs of California State Prison — Los Angeles County	138
Water Code § 78648 (amended). Definitions	138
Water Code § 78680.4 (amended). Definitions	139
Water Code § 78684.10 (amended). Expenditure of funds in account	139
Water Code § 78688 (amended). Applicable law	140
UNCODIFIED ACTS	140
Antelope Valley Storm Water Conservation and Flood Control District Act § 27 (amended). CEQA applicable	140
Honey Lake Valley Groundwater Basin Act § 701 (amended). CEQA compliance	140
Mojave Water Agency Law § 15.4 (amended). Definitions	140
Mono County Tri-Valley Groundwater Management District Act § 405 (amended). Advisory board	143
Mono County Tri-Valley Groundwater Management District Act § 701 (amended). CEQA compliance	143
Ojai Basin Groundwater Management Agency Act § 701 (amended). CEQA compliance	143
Pajaro Valley Water Management Agency Act § 515 (amended). Project consistent with city and county general plans	143
Sacramento Area Flood Control Agency Act § 52 (amended). Agency priorities	144
Stanislaus County Flood Control Enabling Act § 104 (amended). Lead agency	144
Surprise Valley Groundwater Basin Act § 701 (amended). CEQA compliance	144
Willow Creek Valley Groundwater Basin Act § 701 (amended). CEQA compliance	145

BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 11018.14 (amended). Commissioner not responsible agency

SEC. _____. Section 11018.14 of the Business and Professions Code is amended to read:

11018.14. The commissioner shall not be a responsible agency for purposes of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000), ~~Public Resources Environment~~ Code). Receipt by the commissioner of a copy of an environmental impact report or negative declaration prepared pursuant to the California Environmental Quality Act shall be conclusive evidence of compliance with that act for purposes of issuing a subdivision public report.

Comment. Section 11018.14 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

CODE OF CIVIL PROCEDURE

Code Civ. Proc. § 529.2 (amended). Action to challenge housing project

SEC. _____. Section 529.2 of the Code of Civil Procedure is amended to read:

529.2. (a) In all civil actions, including, but not limited to, actions brought pursuant to Section 21167 of the ~~Public Resources Environment~~ Code, brought by any plaintiff to challenge a housing project which is a development project, as defined by Section 65928 of the Government Code, and which meets or exceeds the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, a defendant may, if the bringing of the action or the seeking by the plaintiff of particular relief including, but not limited to, injunctions, has the effect of preventing or delaying the project from being carried out, apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project. The motion shall be made on the grounds that: (1) the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project, and (2) the plaintiff will not suffer undue economic hardship by filing the undertaking.

(b) If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars (\$500,000).

(c) If at any time after the plaintiff has filed an undertaking the housing development plan is changed by the developer in bad faith so that it fails to meet or exceed the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, the developer shall be liable to the plaintiff for the cost of obtaining the undertaking.

Comment. Section 529.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

EDUCATION CODE

Educ. Code § 17025 (amended). Submission and approval of plans

SEC. _____. Section 17025 of the Education Code is amended to read:

17025. (a) The board shall not authorize a contract for the construction of any new school, or for the addition to, or reconstruction or alteration of, any existing building, for lease-purchase to any

school district unless the applicant district has submitted plans therefor to the Department of General Services and obtained the written approval of the department pursuant to Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5.

(b) The board, or the self-certifying district, as applicable, shall certify the compliance of a project with Sections 17212, 17212.5, and 17213, with Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, and with any other law that applies to that project, but may require documentation of compliance only as to requirements that are applicable under this chapter. Notwithstanding any other law, for purposes of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, the applicant district shall be deemed to be the “lead agency” with regard to any project funded for that district under this chapter.

Comment. Section 17025 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 17196 (amended). Applicable law

SEC. _____. Section 17196 of the Education Code is amended to read:

17196. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized in this chapter, and shall be deemed as being supplemental and additional to the powers conferred by other applicable laws, except that the issuance of revenue bonds and refunding bonds and the undertaking or projects or financings under this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds, including, without limitation, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(b) Except as provided in subdivision (a), the financing of a project under this chapter shall not exempt a project from any of the requirements of law which are otherwise applicable to the project.

Comment. Section 17196 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 17213 (amended). Requirements for approval of project

SEC. _____. Section 17213 of the Education Code is amended to read:

17213. The governing board of a school district shall not approve a project involving the acquisition of a schoolsite by a school district unless all of the following occur:

(a) The lead agency, as defined in Section 21067 of the ~~Public Resources~~ Environment Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site unless, if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(b) The lead agency, as defined in Section 21067 of the ~~Public Resources~~ Environment Code, preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located and with any air pollution control district or air quality management district having jurisdiction in the area, to identify facilities within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The lead agency shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

- (1) Consultation identified none of the facilities specified in subdivision (b).
- (2) The facilities specified in subdivision (b) exist, but one of the following conditions applies:
 - (A) The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.
 - (B) The governing board finds that corrective measures required under an existing order by another jurisdiction which has jurisdiction over the facilities will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.
- (d) As used in this section:
 - (1) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.
 - (2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.
 - (3) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.
 - (4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.
 - (5) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.
 - (6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.
 - (7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

Comment. Section 17213 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 17621 (amended). Adopting or increasing fee

- SEC. ____. Section 17621 of the Education Code is amended to read:
17621. (a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 17620, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code, with Section 54994.1 of the Government Code, and with the procedures for mailed notice set forth in Section 54992 of the Government Code. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 17620 shall not be subject to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. The adoption of, or increase in, the fee, charge, dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).
- (b) Without following the procedure otherwise required for adopting or increasing a fee, charge, dedication, or other requirement, the governing board of a school district may adopt an urgency measure as an interim authorization for a fee, charge, dedication, or other requirement, or increase in a fee, charge, dedication, or other requirement, where necessary to respond to a current and immediate threat to the public health, welfare, or safety. The interim authorization shall require a four-fifths vote of the governing board for adoption, and shall contain findings describing the current and immediate threat to the public health, welfare, or safety. The interim authorization shall have no force or effect on and after a date 30 days after its adoption. After notice and hearing in accordance with

subdivision (a), the governing board, upon a four-fifths vote of the board, may extend the interim authority for an additional 30 days. Not more than two extensions may be granted.

(c) Upon adopting or increasing a fee, charge, dedication, or other requirement pursuant to subdivision (a) or (b), the school district shall transmit a copy of the resolution to each city and each county in which the district is situated, accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, charge, dedication, or other requirement. The school district governing board shall specify, pursuant to that notification, whether or not the collection of the fee or other charge is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 17620 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66020 of the Government Code, except that the procedures set forth in Section 66021 of the Government Code are deemed to apply, for this purpose, to commercial and industrial development, as well as to residential development.

(e) In the case of any commercial or industrial development, the following procedures shall also apply:

(1) The school district governing board shall, in the course of making the findings required under subdivisions (a) and (b) of Section 66001 of the Government Code, do all of the following:

(A) Make the findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse.

(B) Conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. For the purpose of making that determination, the study shall utilize employee generation estimates that are calculated on either an individual project or categorical basis, in accordance with subparagraph (A). Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or in part, the applicable employee generation estimates set forth in the January 1990 edition of "San Diego Traffic Generators," a report of the San Diego Association of Governments.

(C) The governing board shall take into account the results of that study in making the findings described in this subdivision.

(2) In addition to any other requirement imposed by law, in the case of any development project against which a fee, charge, dedication, or other requirement is to be imposed pursuant to Section 53080 on the basis of a category of commercial or industrial development, as described in paragraph (1), the governing board shall provide a process that permits the party against whom the fee, charge, dedication, or other requirement is to be imposed the opportunity for a hearing to appeal that imposition. The grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the fee, charge, dedication, or other requirement is to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project. The party appealing the imposition of the fee, charge, dedication, or other requirement shall bear the burden of establishing that the fee, charge, dedication, or other requirement is improper.

Comment. Section 17621 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 17725 (amended). Required approval

SEC. _____. Section 17725 of the Education Code is amended to read:

17725. (a) The board shall not authorize a contract for the construction of any new school, or for the addition to, or reconstruction or alteration of, any existing building, for lease-purchase to any school district unless the applicant district has submitted plans therefor to the Department of General

Services and obtained the written approval of the department pursuant to Article 3 (commencing with Section 39140) of Chapter 1 of Part 23.

(b) The board, or the self-certifying district, as applicable, shall certify the compliance of a project with Sections 39002, 39002.5, and 39003, with Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, and with any other provision of law that applies to that project, but may require documentation of compliance only as to requirements that are applicable under this chapter. Notwithstanding any other provision of law, for purposes of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, the applicant district shall be deemed to be the “lead agency” with regard to any project funded for that district under this chapter.

Comment. Section 17725 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 17896 (amended). Applicable law

SEC. _____. Section 17896 of the Education Code is amended to read:

17896. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized in this chapter, and shall be deemed as being supplemental and additional to the powers conferred by other applicable laws, except that the issuance of revenue bonds and refunding bonds and the undertaking of projects or financings under this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds, including, without limitation, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(b) Except as provided in subdivision (a), the financing of a project under this chapter shall not exempt a project from any of the requirements of law which are otherwise applicable to the project.

Comment. Section 17896 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 35700 (amended). Initiation of action to reorganize district

SEC. _____. Section 35700 of the Education Code is amended to read:

35700. An action to reorganize one or more districts is initiated upon the filing, with the county superintendent of schools, of a petition to reorganize one or more school districts signed by any of the following:

(a) At least 25 percent of the registered voters residing in the territory proposed to be reorganized if the territory is inhabited. Where the petition is to reorganize territory in two or more school districts, the petition shall be signed by at least 25 percent of the registered voters in that territory in each of those districts.

(b) A number of registered voters residing in the territory proposed to be reorganized, equal to at least 8 percent of the votes cast for all candidates for Governor at the last gubernatorial election in the territory proposed to be reorganized, where the affected territory consists of a single school district with over 200,000 pupils in average daily attendance and the petition is to reorganize the district into two or more districts.

(c) The owner of the property, provided that territory is uninhabited and the owner thereof has filed either a tentative subdivision map with the appropriate county or city agency or an application for any project, as defined in Section 21065 of the ~~Public Resources~~ Environment Code, with one or more local agencies.

(d) A majority of the members of the governing boards of each of the districts that would be affected by the proposed reorganization.

Comment. Section 35700 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 39003 (amended). Requirements for approval of project

SEC. _____. Section 39003 of the Education Code is amended to read:

39003. The governing board of a school district shall not approve a project involving the acquisition of a schoolsite by a school district unless all of the following occur:

(a) The lead agency, as defined in Section 21067 of the ~~Public Resources~~ Environment Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site unless, if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(b) The lead agency, as defined in Section 21067 of the ~~Public Resources~~ Environment Code, preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located and with any air pollution control district or air quality management district having jurisdiction in the area, to identify facilities within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The lead agency shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

(1) Consultation identified none of the facilities specified in subdivision (b).

(2) The facilities specified in subdivision (b) exist, but one of the following conditions applies:

(A) The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.

(B) The governing board finds that corrective measures required under an existing order by another jurisdiction which has jurisdiction over the facilities will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.

(d) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(3) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.

(4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(5) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

Comment. Section 39003 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Educ. Code § 94212 (amended). Applicable law

SEC. _____. Section 94212 of the Education Code is amended to read:

94212. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized, and shall be regarded as supplemental and additional to powers conferred by other laws; provided, however, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds including the provisions of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(b) Except as otherwise provided in subdivision (a), a project that is financed in accordance with this chapter shall not be exempt from any provision of law that is otherwise applicable to the project.

Comment. Section 94212 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

FISH AND GAME CODE

Fish & Game Code § 711.2 (amended). Definitions

SEC. _____. Section 711.2 of the Fish and Game Code is amended to read:

711.2. (a) For purposes of this article, unless the context otherwise requires, “wildlife” means and includes all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability and “project” has the same meaning as defined in Section 21065 of the ~~Public Resources~~ Environment Code.

(b) For purposes of this article, “person” includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies of those entities.

Comment. Section 711.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 711.4 (amended). Filing fees

SEC. _____. Section 711.4 of the Fish and Game Code is amended to read:

711.4. (a) The department shall impose and collect a filing fee in the amount prescribed in subdivision (d) to defray the costs of managing and protecting fish and wildlife trust resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), consulting pursuant to Section 21104.2 of the ~~Public Resources~~ Environment Code, and other activities protecting those trust resources identified in the review pursuant to the California Environmental Quality Act.

(b) The filing fees shall be proportional to the cost incurred by the department and shall be annually reviewed and adjustments recommended to the Legislature in an amount necessary to pay the full costs of department programs as specified.

(c)(1) All project applicants and public agencies subject to the California Environmental Quality Act shall pay a filing fee for each proposed project.

(2) Notwithstanding paragraph (1), no filing fee shall be paid pursuant to this section if the lead or certified regulatory program agency finds that the project is either of the following:

(A) Categorically exempt from the California Environmental Quality Act.

(B) De minimis in its effect on fish and wildlife.

(3) Notwithstanding paragraph (1), no filing fee shall be paid pursuant to this section if all the following conditions exist:

(A) The project is being undertaken by the department.

(B) The project costs are payable from any of the following sources:

(i) The Public Resources Account in the Cigarette and Tobacco Products Surtax Fund.

(ii) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

(iii) The Habitat Conservation Fund.

(iv) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

(v) The Commercial Salmon Stamp Account in the Fish and Game Preservation Fund.

(vi) Striped bass stamp funds collected pursuant to Section 7360.

(C) The project is implemented through a contract with either a nonprofit entity or a local government agency. The filing fee shall be paid at the time and in the amount specified in subdivision (d). Notwithstanding Sections 21080.5 and 21081 of the ~~Public Resources~~ Environment Code, no project shall be operative, vested, or final until the filing fees required pursuant to this section are paid.

(d) The fees shall be in the following amounts:

(1) For a project which is found by the lead or certified regulatory agency to be de minimis in its effect on fish and wildlife, no filing fee shall be paid, whether or not a negative declaration or an environmental impact report is prepared pursuant to the California Environmental Quality Act.

(2) For a project which is statutorily or categorically exempt from the California Environmental Quality Act, including those certified regulatory programs which incorporate statutory and categorical exemptions, no filing fee shall be paid.

(3) For a project for which a negative declaration is prepared pursuant to subdivision (c) of Section 21080 of the ~~Public Resources~~ Environment Code, the filing fee is one thousand two hundred fifty dollars (\$1,250). The filing fee shall be paid to the county clerk at the time of filing a notice of determination pursuant to Section 21152 of that code or to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of that code, as appropriate.

(4) For a project with an environmental impact report prepared pursuant to the California Environmental Quality Act, the filing fee is eight hundred fifty dollars (\$850). The filing fee shall be paid to the county clerk at the time of filing a notice of determination pursuant to Section 21152 of the ~~Public Resources~~ Environment Code or to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of that code.

(5) For a project which is subject to a certified regulatory program pursuant to Section 21080.5 of the ~~Public Resources~~ Environment Code, the filing fee is eight hundred fifty dollars (\$850). The filing fee shall be paid to the Secretary of the Resources Agency upon filing of the notice of determination pursuant to Section 21080.5 of that code. If the filing fee is to be paid by the state lead agency, the payment shall be made pursuant to a memorandum of understanding with the department.

(e) The county clerk may charge a documentary handling fee of twenty-five dollars (\$25) per filing in addition to the filing fee specified in subdivision (d).

(1) The county clerk of each county and the Office of Planning and Research shall maintain a record of all environmental documents received. The record shall include, for each environmental document received, the name of each applicant or lead agency, the document filing number, and the filing date. The record shall be made available for examination or audit by authorized personnel of the department during normal business hours.

(2) The filing fee imposed and collected pursuant to subdivision (d) shall be remitted monthly to the department within 30 days after the end of each month. The amount of fees due shall be reported on forms prescribed and provided by the department.

(3) The department shall assess a penalty of 10 percent of the amount of fees due for any failure to remit the amount payable when due. The department may pursue collection of delinquent fees through the Controller's office pursuant to Section 12419.5 of the Government Code.

(f) Notwithstanding Section 12000, failure to pay the fee under subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment subject to collection under procedures as provided in the Revenue and Taxation Code.

(g) Only one filing fee shall be paid for each project unless the project is tiered or phased, and separate environmental documents or review by the department is required.

(h) This section does not preclude or modify the duty of the department to recommend, require, permit, or engage in mitigation activities pursuant to the California Environmental Quality Act.

(i) The permit process of the California Coastal Commission, as certified by the Secretary of the Resources Agency, is exempt from the payment of the filing fees prescribed by paragraph (5) of subdivision (d) insofar as the permits are issued under any of the following regulations:

(1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5 of Title 14 of the California Code of Regulations.

(2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing with Section 13213), Subchapter 3.5 (commencing with Section 13214), Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section 13255) of Chapter 6 of Division 5.5 of Title 14 of the California Code of Regulations.

Comment. Section 711.4 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 711.7 (amended). Trust resources

SEC. ____. Section 711.7 of the Fish and Game Code is amended to read:

711.7. (a) The fish and wildlife resources are held in trust for the people of the state by and through the department.

(1) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal land and water adjacent to or affecting state trust resources, all persons engaging in projects or activities under federal license, contract, or permit, to the extent permitted by federal law, shall be governed by this article and shall pay project filing fees unless the payment of state filing and permit fees is explicitly preempted by the authority of the federal agency permitting the use or modification of state trust resources.

(2) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal lands and waters adjacent to or affecting state trust resources, all federal agencies acting in their proprietary capacity, to the extent permitted by federal law, shall be governed by this article and ~~Sections 10005 and 21089 of the Public Resources Code~~ Section 10005 of the Public Resources Code and Section 21089 of the Environment Code, unless the payment of state filing and permit fees is explicitly preempted by the authority of a particular federal agency.

(b) If a court of competent jurisdiction finds that any provision of this section or the application thereof to any federal agency, person, or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Comment. Section 711.7 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 1015 (amended). Salmon and steelhead resources

SEC. ____. Section 1015 of the Fish and Game Code is amended to read:

1015. Whenever the department is required, or provided an opportunity, to assess the adequacy of a project or to provide a detailed environmental impact statement or similar document pursuant to ~~Public Law 91-190 the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.)~~ or Section 21100, 21101, or 21102 of the ~~Public Resources~~ Environment Code, or any other provision of law, it shall determine the extent to which salmon and steelhead resources will be protected from damage by the project in question, together with the extent to which the agency or person preparing the plans for such project has incorporated therein plans for increasing the salmon or steelhead resources of this state. To the fullest practicable extent, the department shall advise the commission at

one of its regular scheduled meetings of the state's comments on the project. In no event shall more than one regular commission meeting transpire between the time the department renders comments to the requesting person or agency and the time it reports its findings to the commission.

Comment. Section 1015 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 1785 (amended). Wetlands mitigation bank site

SEC. _____. Section 1785 of the Fish and Game Code is amended to read:

1785. If any person desires to establish a wetlands mitigation bank site under this chapter, the person shall apply to the department for a determination that the bank site and the operator qualify under the criteria established by the department pursuant to this chapter. The determination that a bank site qualifies under this chapter is a project for purposes of Section 21065 of the ~~Public Resources~~ Environment Code.

Comment. Section 1785 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 1802 (amended). Jurisdiction of department

SEC. _____. Section 1802 of the Fish and Game Code is amended to read:

1802. The department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. The department, as trustee for fish and wildlife resources, shall consult with lead and responsible agencies and shall provide, as available, the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities, as those terms are used in the California Environmental Protection Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 1802 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2063 (amended). "Feasible" defined

SEC. _____. Section 2063 of the Fish and Game Code is amended to read:

2063. "Feasible" means feasible as defined in Section 21061.1 of the ~~Public Resources~~ Environment Code.

Comment. Section 2063 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2064 (amended). "Project" defined

SEC. _____. Section 2064 of the Fish and Game Code is amended to read:

2064. "Project" means project as defined in Section 21065 of the ~~Public Resources~~ Environment Code.

Comment. Section 2064 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2065 (amended). "State lead agency" defined

SEC. _____. Section 2065 of the Fish and Game Code is amended to read:

2065. “State lead agency” means the state agency, board, or commission which is a lead agency under the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Sec. 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 2065 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2081 (amended). Authorization of acts prohibited by § 2080

SEC. _____. Section 2081 of the Fish and Game Code is amended to read:

2081. The department may authorize acts that are otherwise prohibited pursuant to Section 2080, as follows:

(a) Through permits or memorandums of understanding, the department may authorize individuals, public agencies, universities, zoological gardens, and scientific or educational institutions, to import, export, take, or possess any endangered species, threatened species, or candidate species for scientific, educational, or management purposes.

(b) The department may authorize, by permit, the take of endangered species, threatened species, and candidate species if all of the following conditions are met:

(1) The take is incidental to an otherwise lawful activity.

(2) The impacts of the authorized take shall be minimized and fully mitigated. The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking on the species. Where various measures are available to meet this obligation, the measures required shall maintain the applicant’s objectives to the greatest extent possible. All required measures shall be capable of successful implementation. For purposes of this section only, impacts of taking include all impacts on the species that result from any act that would cause the proposed taking.

(3) The permit is consistent with any regulations adopted pursuant to Sections 2112 and 2114.

(4) The applicant shall ensure adequate funding to implement the measures required by paragraph (2), and for monitoring compliance with, and effectiveness of, those measures.

(c) No permit may be issued pursuant to subdivision (b) if issuance of the permit would jeopardize the continued existence of the species. The department shall make this determination based on the best scientific and other information that is reasonably available, and shall include consideration of the species’ capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities.

(d) The department shall adopt regulations to aid in the implementation of subdivision (b) and the requirements of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, with respect to authorization of take. The department may seek certification pursuant to Section 21080.5 of the ~~Public Resources~~ Environment Code to implement subdivision (b).

Comment. Section 2081 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2090 (amended). Consultation with department

SEC. _____. Section 2090 of the Fish and Game Code is amended to read:

2090. (a) Except as provided in subdivision (c), each state lead agency shall consult with the department, in accordance with guidelines developed by the department, to ensure that any action authorized, funded, or carried out by the state lead agency is not likely to jeopardize the continued existence of any endangered or threatened species.

(b) Whenever the department consults with a state lead agency pursuant to Section 21080.3, 21080.4, 21080.5, or 21104.2 of the ~~Public Resources~~ Environment Code, the department shall issue a written finding based on its determination of whether a proposed project would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or

adverse modification of habitat essential to the continued existence of the species. The written finding shall also include the department's determination of whether a proposed project would result in any taking of an endangered species or a threatened species incidental to the proposed project. The department shall base its determination on the best available scientific information.

(c) This section does not apply to any of the following projects, except that notification by the agency or public utility performing any of the following projects shall be made to the department within 14 days from the date of the commencement of the project:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

Comment. Section 2090 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2092 (amended). Reasonable and prudent alternatives

SEC. ____ . Section 2092 of the Fish and Game Code is amended to read:

2092. (a) Notwithstanding Section 21081 of the ~~Public Resources~~ Environment Code, if, after consulting with the department pursuant to Section 2090, jeopardy is found, the state lead agency shall require reasonable and prudent alternatives consistent with conserving the species which would prevent jeopardy.

(b) If specific economic, social, or other conditions make infeasible the alternatives prescribed in subdivision (a), except as provided in subdivision (c), the state lead agency may approve a project when jeopardy is found, if both of the following conditions are met:

(1) The state lead agency requires reasonable mitigation and enhancement measures as are necessary and appropriate to minimize the adverse impacts of the project upon the endangered species or threatened species, or habitat essential to the continued existence of the species, including, but not limited to, live propagation, transplantation, and habitat acquisition, restoration, and improvement.

(2) The state lead agency finds all of the following:

(A) The benefits of the project as proposed clearly outweigh the benefits of the project were it to be carried out with the reasonable and prudent alternatives consistent with conserving the species which would prevent jeopardy.

(B) An irreversible or irretrievable commitment made after initiation of consultation required pursuant to Section 2090, of resources to the project, which has the effect of foreclosing the opportunity for formulating and implementing reasonable and prudent alternatives consistent with conserving the species which prevent jeopardy, has not been made.

(c) A state lead agency shall not approve a project which would likely result in the extinction of any endangered species or threatened species. The state lead agency shall base its determination on the best existing scientific information.

Comment. Section 2092 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2093 (amended). Mechanism for informal consultation

SEC. _____. Section 2093 of the Fish and Game Code is amended to read:

2093. In order to encourage resolution of potential conflicts as early as possible, the department shall, through guidelines, provide a mechanism for informal consultation prior to a determination pursuant to Section 21080.1 of the ~~Public Resources~~ Environment Code.

Comment. Section 2093 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2095 (amended). Threatened or endangered species

SEC. _____. Section 2095 of the Fish and Game Code is amended to read:

2095. If a project may affect species that are listed as threatened or endangered under both this chapter and the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), and if the project is subject to state lead agency actions pursuant to the provisions of the California Environmental Quality Act (Division ~~13 3~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) and actions of a federal agency action pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), the department shall participate to the greatest extent practicable in the federal consultation.

The Legislature encourages cooperative and simultaneous consultation by every state lead agency in order to develop a coordinated federal Biological Opinion that reflects consistent and compatible findings between state and federal agencies. Whenever possible, the department, consistent with this act, shall adopt a federal Biological Opinion as the written findings required pursuant to Section 2090.

Whenever the department has reason to believe that a project may affect species that are listed as threatened and endangered under both this chapter and the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), and if the project is subject to state lead agency actions pursuant to the provisions of the California Environmental Quality Act (Division ~~13 3~~ 3 (commencing with Section 21000 of the ~~Public Resources~~ Environment Code) and actions of a federal agency action pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), the department shall request the United States Department of the Interior, Fish and Wildlife Service or the National Marine Fisheries Service, whichever is appropriate, to initiate consultation pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

Comment. Section 2095 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2627 (amended). Protection of public interest

SEC. _____. Section 2627 of the Fish and Game Code is amended to read:

2627. (a) Funds granted pursuant to subdivision (c) of Section 2620 for any purpose, other than acquisition, shall not be encumbered by the recipient until the conservancy has entered into an agreement sufficient to protect the public interest in any improvements constructed pursuant to this chapter with the entity that exercises legal control of the real property on which the improvement is constructed.

(b) The conservancy shall not disburse any grant until the applicant, or any other appropriate managing or operating entity, has entered into an agreement with the conservancy or its designee, or both, sufficient to assure that the property acquired, enhanced, or developed, and any improvements thereon, shall be managed and operated for the purpose for which the grant was requested. No use of the property that is incompatible with that purpose shall ever be permitted.

(c) The minimum amount for which an application for an individual project may be made is fifteen thousand dollars (\$15,000).

(d) Every application for a grant shall comply with the California Environmental Quality Act (Division ~~13 3~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(e) Notwithstanding Sections 31207 and 31257 of the Public Resources Code, funds granted pursuant to subdivision (c) of Section 2620 may be encumbered only for the acquisition, enhancement, or development, or any combination thereof, and the costs incurred by the recipient in planning, preparation of construction documents, fiscal management and accounting, and supervision of construction in connection with the project for which the grant was made. All expenditures made by a recipient of a grant shall be subject to being audited.

(f) Funds granted pursuant to subdivision (c) of Section 2620 shall be available for encumbrance by the recipient for a period of three years after the date when the grant became effective.

Comment. Section 2627 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2794 (amended). Management plan

SEC. ____. Section 2794 of the Fish and Game Code is amended to read:

2794. In implementing this chapter, the state or local agency that manages lands acquired with funds appropriated from the fund shall prepare, with full public participation, a management plan for lands that have been acquired, which plan shall reasonably reduce possible conflicts with neighboring land use and landowners, including agriculturists. The plans shall comply with the California Environmental Quality Act (Division ~~21~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code).

Comment. Section 2794 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2799 (amended). CEQA compliance

SEC. ____. Section 2799 of the Fish and Game Code is amended to read:

2799. Every expenditure made pursuant to this chapter shall comply with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code).

Comment. Section 2799 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 2825 (amended). Nonregulatory guidelines

SEC. ____. Section 2825 of the Fish and Game Code is amended to read:

2825. (a) The department may prepare nonregulatory guidelines for the development and implementation of natural community conservation plans. The guidelines are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code. The guidelines may include, but are not limited to, all of the following:

- (1) Defining the scope of a conservation planning area.
- (2) Determining conservation standards, guidelines, and objectives for the planning area.
- (3) Appointing one or more advisory committees to review and make recommendations regarding the preparation and implementation of natural community conservation plans. The advisory committee membership may include representation from the local community near the plan area.
- (4) Coordinating with local, state, and federal agencies, including the Trade and Commerce Agency.
- (5) Incorporating public input.
- (6) Ensuring compatibility with the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).
- (7) Obtaining approval of the natural community conservation plan by the department.
- (8) Provisions for implementation of the plan.
- (9) Monitoring and reporting on plan implementation.
- (10) Amending the plan consistent with the initial intent of the plan.

(b) Nothing in this chapter exempts projects proposed in a natural community conservation planning area from the requirements of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(c) Natural community conservation plans, as appropriate, shall be implemented pursuant to Section 2081.

(d) To the extent practicable, implementation of natural community conservation plans shall use the services of either the California Conservation Corps or local community conservation corps.

Comment. Section 2825 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 5653.9 (amended). Regulations

SEC. _____. Section 5653.9 of the Fish and Game Code is amended to read:

5653.9. The department shall adopt regulations to carry out Section 5653 and may adopt regulations to carry out Sections 5653.3, 5653.5, and 5653.7. The regulations shall be adopted in accordance with the requirements of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 5653.9 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Fish & Game Code § 15101 (amended). Aquaculture facility registration

SEC. _____. Section 15101 of the Fish and Game Code is amended to read:

15101. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner's name.
- (2) The species grown.
- (3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of four hundred dollars (\$400) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of two hundred dollars (\$200). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section.

(c) The annual registration of information required by subdivision (b) is not a project for purposes of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 15101 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

FOOD AND AGRICULTURAL CODE

Food & Agric. Code § 3302 (amended). Cal Expo flood plain

SEC. _____. Section 3302 of the Food and Agricultural Code is amended to read:

3302. No changes shall be made in the uses of the flood plain on California Exposition and State Fair property until the board has adopted a management plan for the flood plain area which complies with the law concerning Bushy Lake Preservation in Chapter 9 (commencing with Section 5830) of Division 5 of the Public Resources Code and with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 3302 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Food & Agric. Code § 14022 (amended). Pesticide evaluation

SEC. _____. Section 14022 of the Food and Agricultural Code is amended to read:

14022. (a) In consultation with the Office of Environmental Health Hazard Assessment and the State Air Resources Board, the director shall evaluate the health effects of pesticides which may be or are emitted into the ambient air of California and which may be determined to be a toxic air contaminant which poses a present or potential hazard to human health. Upon request of the State Air Resources Board, the director shall include a pesticide for evaluation.

(b) The director shall complete the evaluation of a pesticide within 90 days after receiving the scientific data specified in subdivision (c) from the office and the State Air Resources Board. The director may extend the 90-day deadline for a period not to exceed 30 days if the director transmits to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of the deadline.

(c) In conducting this evaluation, the director shall consider all available scientific data, including, but not limited to, relevant data provided by the office, the Occupational Safety and Health Division of the Department of Industrial Relations, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. At the request of the director, the State Air Resources Board shall document the level of airborne emissions and the office shall provide an assessment of related health effects of pesticides which may be determined to pose a present or potential hazard and each agency shall provide technical assistance to the department as it conducts its evaluation.

(d) The director may request, and any person shall provide, information on any substance which is or may be under evaluation and which is manufactured, distributed, or used by the person to whom the request is made, in order to carry out his or her responsibilities pursuant to this chapter. Any person providing information pursuant to this subdivision shall, at the request of the director, identify that portion of the information submitted to the department which is a trade secret and, upon the request of the director, shall provide documentation to support the claim of the trade secret. Information supplied which is a trade secret, as specified in Section 6254.7 of the Government Code, and which is so marked at the time of submission shall not be released to the public by the director, except in accordance with Section 1060 of the Evidence Code and Section 21160 of the Public Resources Environment Code.

(e) The director shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of usage of the pesticide in California, persistence in the atmosphere, and ambient concentrations in the community.

Comment. Section 14022 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Food & Agric. Code § 33487 (amended). Dairy farms

SEC. _____. Section 33487 of the Food and Agricultural Code is amended to read:

33487. No environmental impact report may be required by any state agency for any activity of a dairy farm, including adoption of waste discharge requirements pursuant to Division 7 (commencing with Section 13000) of the Water Code, under all of the following circumstances:

(a) When the proposed dairy will be constructed and operated in accordance with the minimum standards established under this chapter.

(b) Where the applicable local public agencies have completed all necessary reviews and approvals, including the provisions of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, where applicable.

(c) Where a permit for construction has been issued by the appropriate local agency or agencies, and construction undertaken.

This section shall not apply to any dairy that received a permit, and undertook construction, prior to the effective date of the legislation enacting this section.

Comment. Section 33487 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

GOVERNMENT CODE

Gov't Code § 5956.6 (amended). Agreements that facilitate projects

SEC. ____ . Section 5956.6 of the Government Code is amended to read:

5956.6. (a) For purposes of facilitating projects, the agreements specified in Section 5956.4 may include provisions for the lease of rights-of-way in, and airspace over, property owned by a governmental agency, for the granting of necessary easements, and for the issuance of permits or other authorizations to enable the private entity to construct infrastructure facilities supplemental to existing government-owned facilities. Infrastructure constructed by a private entity pursuant to this chapter shall, at all times, be owned by a governmental agency, unless the governmental agency, in its discretion, elects to provide for ownership of the facility by the private entity during the term of the agreement. The agreement shall provide for the lease of those facilities to, or ownership by, the private entity for up to 35 years. In consideration therefor, the agreement shall provide for complete reversion of the privately constructed facility to the governmental agency at the expiration of the lease at no charge to the governmental agency. Subsequent to the expiration of the lease or ownership period, the governmental agency may continue to charge fees for use of the infrastructure facility. If, after the expiration of the lease or ownership period, the governmental agency continues to lease airspace rights to the private entity, it shall do so at fair market value.

(b) The agreement between the governmental agency and the private entity shall include, but need not be limited to, provisions to ensure the following:

(1) Compliance with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code). Neither the act of selecting a proposed project or a private entity, nor the execution of an agreement with a private entity, shall require prior compliance with the act. However, appropriate compliance with the act shall thereafter occur before project development commences.

(2) Security for the construction of the facility to ensure its completion, and contractual provisions that are necessary to protect the revenue streams of the project.

(3) Adequate financial resources of the private entity to design, build, and operate the facility, after the date of the agreement.

(4) Authority for the governmental agency to impose user fees for use of the facility in an amount sufficient to protect the revenue streams necessary for projects or facilities undertaken pursuant to this chapter. User fee revenues shall be dedicated exclusively to payment of the private entity's direct and indirect capital outlay costs for the project, direct and indirect costs associated with operations, direct and indirect user fee collection costs, direct and indirect costs of administration of the facility, reimbursement for the direct and indirect costs of maintenance, and a negotiated reasonable return on investment to the private entity.

(5) As a precondition to the imposition or increase of a user fee, the governmental agency shall conduct at least one public hearing at which public testimony will be received regarding a proposed user fee revenue or increase in user fee revenues. The public hearing shall precede the action by the governmental agency to actually impose a user fee or to increase an existing user fee. The governmental agency shall consider the public testimony prior to imposing a new or increased user

fee. The governmental agency shall provide the following notices and utilize the following procedures:

(A) Notice of the date, time, and place of the meeting, including a general explanation of the matter to be considered, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the governmental agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed prior to the expiration of the one-year period for which the written request was filed. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(B) At least 10 days prior to the meeting, the governmental agency shall make available to the public data that supports the amount of the fee or the increase in the fee.

(C)(i) At least 10 days prior to the meeting, the governmental agency shall publish a notice in a newspaper of general circulation in that agency's jurisdiction stating the date, time, and place of the meeting, including a general explanation of the matter to be considered.

(ii) Any costs incurred by the governmental agency in conducting the meeting or meetings required by this section may be recovered from fees charged for the services that are the subject of the fee.

(iii) For transportation projects specifically authorized by this chapter, at least 10 days prior to the meeting, the governmental agency shall publish for four consecutive times, a notice in the newspaper of general circulation in the affected area stating in no smaller than 10-point type a notice specifying the subject of the hearing, the date, time, and place of the meeting, and in at least 8-point type a general explanation of the matter to be considered.

(D) No local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount that exceeds the estimated amount required to provide the service for which the fee or service charge is levied and a reasonable rate of return on investment, pursuant to paragraph (4). Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge pursuant to this chapter shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.

(6) Require that if the legislative body of the governmental agency determines that fees or service charges create revenues in excess of the actual cost for which the user fee revenues are dedicated and a reasonable rate of return on investment, pursuant to paragraph (4), those revenues shall either be applied to any indebtedness incurred by the private entity with respect to the project, be paid into a reserve account in order to offset future operation costs, be paid into the appropriate government account, be used to reduce the user fee or service charge creating the excess, or a combination of these sources.

(7) Require the private entity to maintain the facility in good operating condition at all times, including the time the facility reverts to the governmental agency.

(8) Preparation by the private entity of an annual audited report accounting for the income received and expenses to operate the facility. The private entity shall make that report available to any member of the public for a cost not to exceed the cost of reproduction of the report.

(9) Provision for a buyout of the private entity by the governmental entity in the event of termination or default before the end of the lease term.

(10) Provision for appropriate indemnity promises between the governmental agency and the private entity.

(11) Provision requiring the private entity to maintain insurance with those coverages and in those amounts that the governmental agency deems appropriate.

(12) In the event of a dispute between the governmental agency and the private entity, both parties shall be entitled to all available legal or equitable remedies.

Comment. Section 5956.6 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 7075 (amended). Applicant's initial study

SEC. _____. Section 7075 of the Government Code is amended to read:

7075. (a) Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the agency, the state clearinghouse, and all responsible agencies.

(b) Only a city, county, or city and county chosen by the agency as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the enterprise zone. The draft environmental impact report shall be submitted to the agency with the final application.

(c) Prior to final designation by the agency, the applicant shall complete and certify the final environmental impact report.

(d) The environmental impact report shall comply with the information disclosure provisions and the substantive requirements of Division 13 3 (commencing with Section 21000) of the Public Resources Environment Code.

(e) No further environmental impact report shall be required if the effects of the project were any of the following:

- (1) Mitigated or avoided as a result of the environmental impact report prepared for the area.
- (2) Examined at a sufficient level of detail in the environmental impact report for the area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the area.
- (3) Identified in the final environmental impact report and the lead agency made written findings that specific economic, social, or other considerations made the mitigation measures or project alternatives identified in the final environmental impact report unfeasible.

Comment. Section 7075 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 7113 (amended). Applicant's initial study

SEC. _____. Section 7113 of the Government Code is amended to read:

7113. (a) Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the department, the state clearinghouse, all responsible agencies, and any public agency that has jurisdiction by law with respect to the project.

(b) A governing body selected by the agency as a final applicant shall prepare, or cause to be prepared, an environmental impact report pursuant to Division 13 3 (commencing with Section 21000) of the Public Resources Environment Code for any and all projects planned within the local agency military base recovery area. Whenever a project requires compliance with both the California Environmental Quality Act and the National Environmental Policy Act, the lead agency shall, to the greatest extent feasible, prepare a joint environmental impact report and environmental impact statement. The draft environmental impact report shall be submitted to the agency with the final application.

(c) Prior to final designation by the agency, the applicant shall complete and certify the final environmental impact report and act on the project.

Comment. Section 7113 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 8162.9 (amended). Development limitations

SEC. _____. Section 8162.9 of the Government Code is amended to read:

8162.9. (a) Notwithstanding subdivision (a) of Section 8162.7, a 96-foot height limit shall apply to construction, exclusively for the purposes of residential development, for Lot 4, Block 223 (known as Capitol Area Development Authority Residential Site 21) surrounded by N Street on the north, 14th Street on the east, 120 feet west of 14th Street on the west, and one quarter of a half block to the south of N Street on the south.

(b) Notwithstanding any other provision of law, development on the city blocks surrounding the Stanford Mansion located at 802 N Street, and the Heilbron Mansion located at 704 O Street, shall be environmentally sensitive to these historic mansions. Copies of environmental documents for any development on the city blocks surrounding these mansions shall be distributed by the State Clearinghouse within the Governor's Office of Planning and Research to the State Office of Historic Preservation, and other agencies as required by the California Environmental Quality Act, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 8162.9 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 8790.41 (amended). Land acquired pursuant to Section 8790.40

SEC. _____. Section 8790.41 of the Government Code is amended to read:

8790.41. (a) Any land acquired by the State Public Works Board pursuant to Section 8790.40 shall be transferred to the Department of General Services.

(b) Notwithstanding Sections 11011 and 11011.1 of this code, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, or any other provision of law, all or any portion of the property transferred pursuant to subdivision (a) may be conveyed by the Department of General Services to the federal government, without cost, for the purposes for which the site was acquired. The Department of General Services may sell, hold, lease, exchange, or otherwise convey for its fair market value, the fee or any lesser right or interest in any property acquired hereunder, including mineral rights, which the State Public Works Board determines not to be necessary for site acquisition purposes. All costs incurred in connection with the sale, lease, exchange, or management of that property may be deducted from any of the proceeds received.

Comment. Section 8790.41 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 9115 (amended). Legislative office facilities

SEC. _____. Section 9115 of the Government Code is amended to read:

9115. (a) In order to adequately provide for the proper housing and administrative requirements of the Legislature, it is necessary for the Legislature to acquire and finance additional legislative office facilities in a location adjacent to the State Capitol Building so as to provide for the efficient and effective operations of state government.

(b) The Legislature desires to provide a procedure for acquiring, and to authorize the financing of, these legislative office facilities by the enactment of this article.

(c) It is the intent of the Legislature to conduct a thorough review of the current and long-term requirements of the Legislature for office facilities and to conduct a study to determine the most economical and cost-effective method of funding the acquisition of those office facilities.

(d) It is also the intent of the Legislature to minimize delays, and thereby reduce costs, in the acquisition of adequate office facilities, and to that end it is the intent of the Legislature that the requirements of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code be completed in an expeditious manner without undue delays.

Comment. Section 9115 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 9121 (amended). Applicable law

SEC. _____. Section 9121 of the Government Code is amended to read:

9121. (a) This article shall be deemed and construed to be separate and complete authority for all of the actions authorized by this article, including, but not limited to, the development, design, construction, operation, maintenance, and financing of the project, and all acts related thereto, and the

transfer and relocation of the present occupants of the buildings to new facilities. To the extent that this article is inconsistent with any other general statute or special act or parts thereof, or any local government laws, rules, and regulations, now or hereafter enacted, this article is controlling.

(b) Notwithstanding any other provision of law, the project authorized by this article shall be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(c) The project authorized by this article shall not be subject to any other state or local government requirement, limitation, or control, including, but not limited to, zoning and building permits.

(d) This article shall be liberally construed to effect its purpose and in a manner that will promote the acquisition, construction, renovation, improvement, and financing of the project.

(e) Notwithstanding any other provision of this article, no funds shall be expended for the destruction, removal, remodeling, or rehabilitation of the existing buildings on the project property prior to the completion of the feasibility study required pursuant to Section 9116, and the approval of the funding source and the project scope and cost by a subsequently enacted resolution of both houses of the Legislature.

Comment. Section 9121 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 11011.21 (amended). Surplus property inventory

SEC. ____ . Section 11011.21 of the Government Code is amended to read:

11011.21. (a) The Legislature finds and declares that the Department of General Services has, pursuant to former Section 11011.21, as added by Section 8 of Chapter 150 of the Statutes of 1994, and amended by Section 15 of Chapter 422 of the Statutes of 1994, developed an inventory, known as the Surplus Property Inventory, of state-owned properties that are either surplus to the needs of the state in their entirety or are being used for a state program and some portions of the property are unused or underutilized.

(b) State agencies, when purchasing real property, shall review the Surplus Property Inventory and purchase, lease, or trade property on that list, if possible, prior to purchasing property not on the Surplus Property Inventory.

(c) The Department of General Services may sell, lease, exchange, or transfer for current market value, or upon terms and conditions as the Director of General Services determines are in the best interest of the state, all or part of properties as follows:

Parcel 1. Approximately 292 acres with improvements thereon, known as the Agnews Developmental Center-West Campus, bounded by Lick Mill Blvd., Montague Expressway, Lafayette Street and Hope Drive, in Santa Clara, Santa Clara County.

Parcel 2. Approximately 56 acres known as a portion of the Agnews Developmental Center-East Campus, located between the Agnews Developmental Center and Coyote Creek, in San Jose, Santa Clara County.

Parcel 3. Approximately 102 acres with improvements thereon, known as the Stockton Developmental Center, located at 510 E. Magnolia Street, in Stockton, San Joaquin County.

Parcel 4. Approximately 12.72 acres with improvements thereon, formerly used as a Department of Forestry and Fire Protection facility, known as Bolinger Canyon Pest Management Facility, located off Highway 680 at 18112-18114 Bolinger Canyon Road, in San Ramon, Contra Costa County.

Parcel 5. Approximately one acre with improvements thereon, known as the California Department of Forestry and Fire Protection, Cottonwood Pass Forest Fire Station, located three miles west of Highway 33 on the south side of Highway 41, in Kings County.

Parcel 6. Approximately 33.56 acres with improvements thereon, known as the California Highway Patrol Motor Transport Facility and Shop, located at 2800 Meadowview Road, in Sacramento, Sacramento County.

Parcel 7. Approximately 1.03 acres of land, not including improvements thereon, located at 1614 O Street, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the 17th Street Commons condominiums.

Parcel 8. Approximately 2 acres of land, not including improvements thereon, located on a portion of block 273 bound by 10th, 11th, P, and Q Streets, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the Somerset Parkside condominiums.

Parcel 9. Approximately 1.76 acres of land, not including improvements thereon, located on the south 1/2 of block bound by 15th, 16th, O, and P Streets and the south 1/4 of block bound by 14th, 15th, O, and P Streets, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the Stanford Park condominiums.

Parcel 10. Approximately 1.18 acres of land, not including improvements thereon, located on the north 1/2 of block bound by 9th, 10th, Q, and R Streets, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the Saratoga Townhomes.

Parcel 11. Approximately 3.66 acres including improvements thereon, known as the Department of General Services, Junipero Serra State Office Building, located at 107 S. Broadway, in Los Angeles, Los Angeles County.

Parcel 12. Approximately 32 acres including improvements thereon, being a portion of the State Department of Developmental Services Fairview Developmental Center, located at 2501 Harbor Blvd., in Costa Mesa, Orange County.

Parcel 13. Approximately 3.6 acres, with improvements thereon. Entire structure used as the Delano Armory by the Military Department, located at 705 South Lexington Street, in Delano, Kern County.

Parcel 14. Approximately 5 acres of vacant land, being a portion of the Military Department's San Diego Armory, located at 7401 Mesa College Drive, in San Diego, San Diego County.

Parcel 15. Approximately 23 acres of vacant land fronting the highway, being a portion of the State Department of Mental Health's Napa State Hospital, located at 2100 Napa Vallejo Highway, in Napa, Napa County, which shall only be available for lease.

Parcel 16. Approximately 1,720 acres of agricultural land, being a portion of the Department of Corrections' Imperial South Centinella Prison, located at 2302 Brown Road, in Imperial, Imperial County, which shall only be available for lease.

Parcel 17. Approximately 800 acres of agricultural land, being a portion of the Department of Corrections' Imperial North Calipatria Prison, located at 7018 Blair Road, in Calipatria, Imperial County, which shall only be available for lease.

(d) The Director of General Services, after further study and with the consent of the agency in control and possession of the property, may sell, lease, exchange, or transfer for current market value, upon terms and conditions as the director determines are in the best interest of the state, portions of properties as follows:

Parcel 1. Excess acreage of the Department of Forestry and Fire Protection, known as the Alder Conservation Camp, located at 1400 Alder Camp Road, in Klamath, Del Norte County, near Highway 101 and Highway 169. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 2. Excess acreage of the Department of Forestry and Fire Protection, known as the Deadwood Conservation Camp, located at 17140 McAdams Creek Road, in Fort Jones, Siskiyou County, north of Fort Jones off Highway 3. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 3. Excess acreage of the Department of Forestry and Fire Protection, known as the Eel River Conservation Camp, located in Redway, Humboldt County, north of Garberville off Highway 101. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 4. Excess acreage of the Department of Forestry and Fire Protection, known as the Fawn Lodge Forest Fire Station, located on Fawn Lodge Road off Highway 299, in Weaverville, Trinity County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 5. Excess acreage of the Department of Forestry and Fire Protection, known as the Miramonte Conservation Camp, located at 49039 Orchard Drive, in Miramonte, Fresno County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 6. Excess acreage with improvements thereon, of the Department of Forestry and Fire Protection's Mt. Zion Lookout, located at the end of Mount Zion Road, in Pine Grove, Amador County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 7. Excess acreage of the Department of Forestry and Fire Protection, known as the Shingletown Forest Fire Station, located off Highway 44, in Shingletown, Shasta County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 8. Excess acreage of Department of Forestry and Fire Protection, known as the Tularcitos Forest Fire Station, located on Cachagua Road off Valley Road, in Carmel, Monterey County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 9. Excess acreage of Department of Forestry and Fire Protection, known as the Wolf Creek Forest Fire Station, located at 10106 Combie Road, in Higgins Corners, Nevada County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Forestry and Fire Protection.

Parcel 10. Excess acreage with improvements thereon, of the State Department of Mental Health's Metropolitan State Hospital, located at 11400 South Norwalk Blvd., in Norwalk, Los Angeles County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Department of Mental Health.

Parcel 11. Excess acreage of the Military Department's Camp San Luis Obispo, located on Highway 101 north of San Luis Obispo, in San Luis Obispo County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Military Department.

Parcel 12. Vacant land of the Military Department's Camp Escondido Armory located at 304 East Park Avenue, in Escondido, San Diego County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Military Department.

Parcel 13. Excess acreage of the Military Department's Hollister Armory, located at 2302 San Felipe Road, in Hollister, San Benito County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Military Department.

Parcel 14. Excess acreage of the Military Department's Merced Armory, located at 1240 West 8th Street, in Merced, Merced County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Military Department.

Parcel 15. Excess acreage of the Military Department's Salinas Armory, located at Howard and Lincoln Streets, in Salinas, Monterey County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Military Department.

Parcel 16. Excess acreage of the Military Department's Visalia Armory, located at 1100 North Akers Road, in Visalia, Tulare County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Military Department.

Parcel 17. Excess acreage of the Military Department's Willows Armory, located at 950 West Laurel Street, in Willows, Glenn County. Specific parcels available for disposition to be determined through a study by the Department of General Services and the Military Department.

(e) The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition of any parcels.

(f) Notices of every public auction or bid opening shall be posted on the property to be sold pursuant to this section, and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated.

(g) Any sale, exchange, lease, or transfer of a parcel described in this section is exempt from Chapter 3 5 (commencing with Section 21100) to Chapter 6 9 (commencing with Section 21165), inclusive, of Division 13 3 of the Public Resources Environment Code.

(h) As to any property sold pursuant to this section consisting of 15 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits possessed by the state, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to property sold pursuant to this section consisting of more than 15 acres, the director shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove the deposits shall be limited to those areas of the property conveyed that the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the deposits.

(i) The net proceeds of any moneys received from the disposition of any parcels described in this section shall be deposited in the General Fund.

Comment. Section 11011.21 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 14561.3 (amended). Applicable law

SEC. ____. Section 14561.3 of the Government Code is amended to read:

14561.3. (a) This chapter is separate and complete authority for all of the actions authorized by this article. The issuance of short-term financing mechanisms pursuant to this chapter need not comply with any other provision of law applicable to the issuance of short-term financing instruments.

(b) Solely for the purpose of approving short-term financing mechanisms pursuant to this chapter, neither the commission nor the department shall be required to comply with ~~of~~ Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 14561.3 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 14670.9 (amended). Agnews State Hospital lease

SEC. ____. Section 14670.9 of the Government Code is amended to read:

14670.9. (a) Notwithstanding Sections 11011 and 14670, and Section 118 of the Streets and Highways Code, the Director of General Services, with the approval of the State Public Works Board, may lease for a period of no longer than 66 years, to the City of San Jose, the County of Santa Clara, or a public authority formed by the City of San Jose or the County of Santa Clara, the following real property:

Approximately 102 acres of vacant land located in the northerly side of the east campus of Agnews State Hospital, County of Santa Clara. The southerly line of this parcel shall be located on Center Road.

The lease shall be for current market value and upon those terms and conditions and with such reservations and exception which in his or her opinion may be in the best interest of the state. The lease shall not permit the construction of any permanent building within 400 feet of the nearest hospital building.

(b) Net revenues generated by the lease of the parcel of Agnews State Hospital land as described in subdivision (a), shall be deposited as follows:

(1) Fifty percent in the General Fund.

(2) Fifty percent in the special account of the Department of Developmental Services.

“Net revenues,” as used in this section, means cash and the cash value of any compensation other than cash.

It is the intent of the Legislature that the appropriations from this account shall be for the purposes of nonrecurring expenditures within the State Department of Developmental Services such as capital expenditures for developmental centers and startup of new state or private developmental services facilities.

(c) Notice of every public auction or bid opening shall be posted on the property to be leased and shall be published in a newspaper of general circulation published in the county in which the real property to be leased is situated. The lease of property pursuant to this section is exempt from the provisions of Sections 21100 to 21174, inclusive, of the ~~Public Resources~~ Environment Code.

(d) As to any property leased pursuant to this section, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry.

Comment. Section 14670.9 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 14670.10 (amended). Sonoma Development Center lease

SEC. ____ Section 14670.10 of the Government Code is amended to read:

14670.10. (a) Notwithstanding any other provision of law, if the Director of General Services leases property located at the Sonoma Developmental Center that was formerly an orchard and that has been determined to be surplus state property pursuant to Section 7 of Chapter 193 of the Statutes of 1996, the director shall lease the property only for an agricultural or open-space purpose consistent with, but not requiring the specific local government approvals related to, all of the following:

(1) The city and county general plan, specific plan, and other requirements, and other plans or policies adopted for the area within which the property is located, including any plans and regulations adopted pursuant to Chapter 4 (commencing with Section 8400) of Part 2 of Division 5 of the Water Code.

(2) The city and county zoning ordinances, regulations, and policies adopted for the area within which the property is located.

(3) The city and county building regulations and policies adopted for the area within which the property is located.

(b) Prior to accepting bids for the lease of the property, the Department of General Services shall comply with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(c) Leases of properties shall not disrupt existing trails and pathways located on the leased properties or access to trails and pathways on adjacent properties.

(d) Lessees of properties shall, as a condition of the lease, agree to restrict the use of hazardous substances, including, but not limited to, pesticides, herbicides, rodenticides, and insecticides, pursuant to the department's hazardous substance policy governing state agricultural leases.

(e) In recognition of the long history of persons with developmental disabilities working in agricultural production on the grounds of the Sonoma Developmental Center, lessees of properties shall, as a condition of the lease, directly employ persons with developmental disabilities in numbers equal to at least 15 percent of their total work force at the leased site. Lessees may also meet this requirement through employment at offsite facilities in California directly related to the leasehold. This requirement shall be structured in a manner that recognizes that there may be periods of time when the lessee may fall below this requirement for justified reasons.

(f) Notwithstanding any other provision of law, the Director of General Services may sell or exchange the property only if the transaction would result in a transfer of the property to an entity that would hold the property in perpetuity as open space or that would result in the property becoming part of the Jack London State Park.

(g) Notwithstanding any other provision of law, the net proceeds received by the state from the lease of the property shall be deposited as follows:

(1) Fifty percent to the General Fund for appropriation as provided in Section 15863.

(2) Fifty percent to a special account within the General Fund to be known as the Community Services Development Account. All funds within this account shall be available for appropriation by the Legislature to the State Department of Developmental Services. Any interest accruing to funds deposited in the account also shall accrue to the account. It is the intent of the Legislature that the appropriations from this account shall be used for the purposes of nonrecurring expenditures within

the State Department of Developmental Services such as capital expenditures for developmental centers and startup of new community-based services. The department shall report annually to the Legislature on the status of this account and how funds have been expended in the previous year.

“Net proceeds” for the purposes of this subdivision means gross proceeds less all costs necessary for the completion of the transaction, including costs incurred by the Department of General Services.

(h) The Department of General Services shall enter into negotiations with the County of Sonoma regarding the conveyance of a conservation easement for property on the grounds of the Sonoma Developmental Center situated above the 1,100-foot elevation line. If a conveyance of an easement is agreed upon, the easement on the subject property may be conveyed to a third-party governmental entity upon the agreement of both the department and the county.

Comment. Section 14670.10 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 15373.9 (amended). Loan or grant application

SEC. _____. Section 15373.9 of the Government Code is amended to read:

15373.9. A local agency may submit an application to the agency for loan or grant funds pursuant to this article. A local agency may submit an application on behalf of a special district. Any application shall include information concerning the project which shall do all of the following:

- (a) Demonstrate community need for economic development.
- (b) Demonstrate financial need for state assistance.
- (c) Demonstrate financial source of loan repayment and interest.
- (d) Provide evidence of firm financial commitment on the part of the business or enterprise associated with the project.
- (e) Provide evidence of site control, including any leases, easements, covenants, or encumbrances which may affect the project.
- (f) Demonstrate that the applicant has the ability to administer the project and state assistance requirements.
- (g) Demonstrate that the project is consistent with a city, county, or city and county general plan.
- (h) Demonstrate that the project will comply with the California Environmental Quality Act as set forth in Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 15373.9 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 15378.6 (amended). Definitions

SEC. _____. Section 15378.6 of the Government Code is amended to read:

15378.6. As used in this chapter:

- (a) “Local agency” means any city, county, or district.
- (b) “Permit” means any license, certificate, registration, permit, or any other form of authorization required by a state agency or by a local agency to engage in a particular activity or action. “Permit” does not include a legislative action by a local agency and does not include any certification or decision made pursuant to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.
- (c) “State agency” means any agency, department, board, commission, office, or bureau of the state government.

Comment. Section 15378.6 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 15399.55 (amended). Alternative dispute resolution

SEC. _____. Section 15399.55 of the Government Code is amended to read:

15399.55. (a) The office may call a conference of parties to resolve questions or mediate disputes arising from permit applications on any proposed development project.

(b) The office shall assist state and local agencies in an attempt to streamline the permit approval process at the state and local level.

(c) The office shall provide information to developers to assist them in meeting the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 15399.55 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 15455 (amended). Applicable law

SEC. _____. Section 15455 of the Government Code is amended to read:

15455. (a) This part shall be deemed to provide a complete, additional, and alternative method for doing the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds, including without limitation the provisions of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(b) Except as provided in subdivision (a), the financing of a project pursuant to this part shall not exempt a project from any requirement of law which otherwise would be applicable to the project.

Comment. Section 15455 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 51119 (amended). Timberland production zone

SEC. _____. Section 51119 of the Government Code is amended to read:

51119. Any action of the board or council undertaken to zone a parcel as timberland production pursuant to Section 51112 or 51113 is exempt from the requirements of Section 21151 of the ~~Public Resources~~ Environment Code.

Comment. Section 51119 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 51238.1 (amended). Uses on contracted lands

SEC. _____. Section 51238.1 of the Government Code is amended to read:

51238.1. (a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

In evaluating compatibility a board or council shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.

(b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional

uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c).

(c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:

(1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.

(4) The use does not include a residential subdivision.

For the purposes of this section, a board or council may define nonprime land as land not defined as “prime agricultural land” pursuant to subdivision (c) of Section 51201 or as land not classified as “agricultural land” pursuant to subdivision (a) of Section 21060.1 of the ~~Public Resources~~ Environment Code.

Nothing in this section shall be construed to overrule, rescind, or modify the requirements contained in Sections 51230 and 51238 related to noncontracted lands within agricultural preserves.

Comment. Section 51238.1 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 51282 (amended). Cancellation of contract

SEC. ____ . Section 51282 of the Government Code is amended to read:

51282. (a) The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may grant tentative approval for cancellation of a contract only if it makes one of the following findings:

- (1) That the cancellation is consistent with the purposes of this chapter; or
- (2) That cancellation is in the public interest.

(b) For purposes of paragraph (1) of subdivision (a) cancellation of a contract shall be consistent with the purposes of this chapter only if the board or council makes all of the following findings:

(1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.

(2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

(3) That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.

(4) That cancellation will not result in discontinuous patterns of urban development.

(5) That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

As used in this subdivision “proximate, noncontracted land” means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision “suitable” for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.

(c) For purposes of paragraph (2) of subdivision (a) cancellation of a contract shall be in the public interest only if the council or board makes the following findings: (1) that other public concerns substantially outweigh the objectives of this chapter; and (2) that there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

As used in this subdivision “proximate, noncontracted land” means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision “suitable” for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.

(d) For purposes of subdivision (a), the uneconomic character of an existing agricultural use shall not by itself be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(e) The landowner’s petition shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 shall be fully applicable thereto. The level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as that necessary to permit them to make the findings required.

(f) In approving a cancellation pursuant to this section, the board or council shall not be required to make any findings other than or in addition to those expressly set forth in this section, and, where applicable, in Section 21081 of the Public Resources Environment Code.

Comment. Section 51282 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 51291 (amended). Public use of land within agricultural preserve

SEC. ____ Section 51291 of the Government Code is amended to read:

51291. (a) As used in this section, Section 51292, and Section 51295 “public agency” means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and “person” means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the preserve of the intention to consider the location of a public improvement within the preserve. In accordance with Section 51290, the notice shall include an explanation of the preliminary consideration of Section 51292, and give a general description, in text or by diagram, of the agricultural preserve land proposed for acquisition, and a copy of any applicable contract created under this chapter. The Director of Conservation shall forward to the Director of Food and Agriculture a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter the Director of Conservation and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to nonagricultural uses, and shall consult with, and incorporate the comments of, the Director of Food and Agriculture on any other matters related to agricultural operations. Failure of any public

agency or person to comply with the requirements of this section shall not invalidate any action by the agency or person to locate a public improvement within an agricultural preserve. However, the failure by any person or any public agency other than a state agency to comply with the requirements of this section shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, water, or communication utility facilities within an agricultural preserve if that preserve was established after submission of the location of those facilities to the city or county for review or approval.

(c) When land in an agricultural preserve is acquired by a public entity, within 10 working days the public entity shall notify the Director of Conservation. The notice shall include a general explanation of the decision, and the findings made pursuant to Section 51292. If different from that previously provided pursuant to subdivision (b), the notice shall also include a general description, in text or by diagram, of the agricultural preserve land acquired, and a copy of any applicable contract created under this chapter.

(d) If, after giving the notice required under subdivisions (b) and (c) and before the project is completed within an agricultural preserve, the public agency or person proposes any significant change in the public improvement, it shall give notice of the changes to the Director of Conservation and the local governing body responsible for the administration of the preserve. Within 30 days thereafter, the Director of Conservation and the local governing body may forward to the public agency or person their comments with respect to the effect of the change to the public improvement on the land within the preserve and the compliance of the changed public improvements with this article. Those comments shall be considered by the public agency or person, if available within the time limits set by this subdivision.

(e) If the notices and findings required by this section and Section 51292 are given and contained within documents prepared pursuant to the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) those documents may be used to meet the notification and findings requirements of this section and Section 51292, as long as they are provided no later than the times set forth in this section.

Any action or proceeding regarding notices or findings required by this article filed by the Director of Conservation or the local governing body administering the agricultural preserve shall be governed by Section 51294.

Comment. Section 51291 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 53080.1 (amended). Adoption or increase of fee

SEC. ____ Section 53080.1 of the Government Code is amended to read:

53080.1. (a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 53080, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7, with Section 54994.1, and with the procedures for mailed notice set forth in Section 54992. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 53080 shall not be subject to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. The adoption of, or increase in, the fee, charge, dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).

(b) Without following the procedure otherwise required for adopting or increasing a fee, charge, dedication, or other requirement, the governing board of a school district may adopt an urgency measure as an interim authorization for a fee, charge, dedication, or other requirement, or increase in a fee, charge, dedication, or other requirement, where necessary to respond to a current and immediate threat to the public health, welfare, or safety. The interim authorization shall require a four-fifths vote of the governing board for adoption, and shall contain findings describing the current and immediate threat to the public health, welfare, or safety. The interim authorization shall have no force

or effect on and after a date 30 days after its adoption. After notice and hearing in accordance with subdivision (a), the governing board, upon a four-fifths vote of the board, may extend the interim authority for an additional 30 days. Not more than two extensions may be granted.

(c) Upon adopting or increasing a fee, charge, dedication, or other requirement pursuant to subdivision (a) or (b), the school district shall transmit a copy of the resolution to each city and each county in which the district is situated, accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, charge, dedication, or other requirement. The school district governing board shall specify, pursuant to that notification, whether or not the collection of the fee or other charge is subject to the restriction set forth in subdivision (a) of Section 66007.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 53080 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66020, except that the procedures set forth in Section 66021 are deemed to apply, for this purpose, to commercial and industrial development, as well as to residential development.

(e) In the case of any commercial or industrial development, the following procedures shall also apply:

(1) The school district governing board shall, in the course of making the findings required under subdivisions (a) and (b) of Section 66001, do all of the following:

(A) Make the findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse.

(B) Conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. For the purpose of making that determination, the study shall utilize employee generation estimates that are calculated on either an individual project or categorical basis, in accordance with subparagraph (A). Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or in part, the applicable employee generation estimates set forth in the January 1990 edition of "San Diego Traffic Generators," a report of the San Diego Association of Governments.

(C) The governing board shall take into account the results of that study in making the findings described in this subdivision.

(2) In addition to any other requirement imposed by law, in the case of any development project against which a fee, charge, dedication, or other requirement is to be imposed pursuant to Section 53080 on the basis of a category of commercial or industrial development, as described in paragraph (1), the governing board shall provide a process that permits the party against whom the fee, charge, dedication, or other requirement is to be imposed the opportunity for a hearing to appeal that imposition. The grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the fee, charge, dedication, or other requirement is to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project. The party appealing the imposition of the fee, charge, dedication, or other requirement shall bear the burden of establishing that the fee, charge, dedication, or other requirement is improper.

Comment. Section 53080.1 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 53096 (amended). Applicability of zoning ordinance

SEC. _____. Section 53096 of the Government Code is amended to read:

53096. (a) Notwithstanding any other provisions of this article, the governing board of a local agency, by vote of four-fifths of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property if the local agency at a noticed public hearing determines

by resolution that there is no feasible alternative to its proposal, except when the proposed use of the property by such local agency is for facilities not related to storage or transmission of water or electrical energy, including, but not limited to, warehouses, administrative buildings or automotive storage and repair buildings. The governing board of a local agency may make such determinations at the time it approves an environmental impact report on its proposal required by Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. Mailed notice of the public hearing shall be provided at least 10 days prior to the hearing, to the owners of all property within 300 feet of the location of the proposed facility and a notice shall be posted in a conspicuous place at the proposed site of such facility. If mailed notice as required above would result in notice to more than 250 persons, as an alternative to such mailed notice, notice may be given by placing a display advertisement of at least one-fourth page in a newspaper of general circulation within the area affected by the proposed facility and by posting such notice in a conspicuous place at the proposed site of such facility.

(b) The board shall, within 10 days, notify the city or county, whose zoning ordinance has been rendered inapplicable under subdivision (a), of such action. If such governing board has taken such action the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of such action of the governing board to determine whether it was supported by substantial evidence. The evidence before the court shall include the record of the proceedings before the city, county, and district. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that such action was not supported by substantial evidence, it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by such local agency.

(c) "Feasible" as used in this section means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Comment. Section 53096 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 53395.15 (amended). Infrastructure financing plan

SEC. _____. Section 53395.15 of the Government Code is amended to read:

53395.15. The infrastructure financing plan shall be sent to each owner of land within the proposed district and to each affected taxing entity together with any report required by the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) that pertains to the proposed public facilities or the proposed development project for which the public facilities are needed, and shall be made available for public inspection. The report shall also be sent to the planning commission and the legislative body.

Comment. Section 53395.15 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 56428 (amended). Amendments to sphere of influence or urban service area

SEC. _____. Section 56428 of the Government Code is amended to read:

56428. (a) Any person or local agency may file a written request with the executive officer requesting amendments to a sphere of influence or urban service area adopted by the commission. The request shall state the nature of the proposed amendment, state the reasons for the request, include a map of the proposed amendment, and contain any additional data and information as may be required by the executive officer.

(b) After complying with the California Environmental Quality Act, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, the executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given. The

executive officer shall give notice in the manner provided by Section 56427. On the date and time provided in the notice, the commission may do either of the following:

(1) Without further notice, consider the amendments to a sphere of influence.

(2) Set a future date for the hearing on the request.

(c) The executive officer shall review each requested amendment and prepare a report and recommendation. The report shall be completed not less than five days before the date specified in the notice of hearing. The executive officer shall send copies of the report to the person or agency making the request, each affected local agency, and each person who has filed a request for a report.

(d) At its meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 70 days from the date specified in the original notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(e) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. The commission shall follow the procedures in Sections 56425 and 56426.

(f) The commission may require the person or agency making a request pursuant to this section to pay a fee to cover the commission's costs. The fee shall not exceed the estimated reasonable cost of providing the service and shall be set pursuant to Section 56383. The commission may waive the fee if it finds that the request can be considered and studied as part of the periodic review of spheres of influence required by Section 56425. In addition, the commission may waive the fee if it finds that payment would be detrimental to the public interest.

(g) The commission and executive officer may review and act on any request to amend a sphere of influence or urban service area concurrently with their review and determination on any related change of organization or reorganization. In case of a conflict between the provisions of this section and any other provisions of this part, the other provisions shall prevail.

Comment. Section 56428 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 56828 (amended). Application to initiate proceedings

SEC. ____ . Section 56828 of the Government Code is amended to read:

56828. (a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (b) of Section 56800.

(c) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(d) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Environment Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(e) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56837 or in the case of an application for which a local agency has already given notice pursuant to subdivision (b) of Section 56800.

(f) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer

shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(g) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(h) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(i) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

Comment. Section 56828 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 56857 (amended). Request for reconsideration of resolution

SEC. ____ . Section 56857 of the Government Code is amended to read:

56857. (a) Any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of any resolution adopted by the commission making determinations. The request shall state the specific modification to the resolution being requested.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations or prior to the adoption of a resolution by the conducting authority pursuant to Chapter 4 (commencing with Section 57075), whichever is earlier. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall immediately notify the conducting authority which shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file an action pursuant to Section 21167 of the ~~Public Resources~~ Environment Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the conducting authority is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 70 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations, but shall direct the executive officer to notify the conducting authority of its action. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56854.

Comment. Section 56857 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65036 (amended). Legislative intent

SEC. _____. Section 65036 of the Government Code is amended to read:

65036. It is the policy of the state and the intent of the Legislature to assure orderly planning for specific functions such as water development, transportation, natural resources, economic development and human resources by units of state government who exercise management responsibility for these functions. It is further the intent of the Legislature to provide, as part of the state planning process, that state functional plans proceed from common assumptions and forecasts of statewide growth and development, including those set forth in Section 21001 of the Public Resources Environment Code.

Comment. Section 65036 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65040 (amended). Office of Planning and Research

SEC. _____. Section 65040 of the Government Code is amended to read:

65040. The Office of Planning and Research shall serve the Governor and his or her Cabinet as staff for long-range planning and research, and constitute the comprehensive state planning agency. In this capacity the office shall:

(a) Assisted by the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6, engage in the formulation, evaluation and updating of long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and utilization, air and water quality, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment.

(b) Assist in the orderly preparation by appropriate state departments and agencies of intermediate- and short-range functional plans to guide programs of transportation, water management, open space, recreation and other functions which relate to the protection and enhancement of the state's environment.

(c) In conjunction with the council, evaluate plans and programs of departments and agencies of state government, identify conflicts or omissions, and recommend to the Governor and the Legislature new state policies, programs and actions, or amendments of existing programs, as required, to resolve conflicts, advance statewide environmental goals to respond to emerging environmental problems and opportunities, and to assure that all state policies and programs conform to the adopted land use planning goals and programs.

(d) Assist the Department of Finance in preparing, as part of the annual state budget, an integrated program of priority actions to implement state functional plans and to achieve statewide environmental goals and objectives and take other actions to assure that the program budget, submitted annually to the Legislature, contains information reporting the achievement of state goals and objectives by departments and agencies of state government.

(e) Coordinate the development of policies and criteria to ensure the federal grants-in-aid administered or directly expended by state government advance statewide environmental goals and objectives.

(f) Coordinate the development and operation of a statewide environmental monitoring system to assess the implications of present growth and development trends on the environment and to identify at an early time, potential threats to public health, natural resources and environmental quality.

(g) Coordinate, in conjunction with appropriate state, regional, and local agencies, the development of objectives, criteria and procedures for the orderly evaluation and report of the impact of public and private actions on the environmental quality of the state and as a guide to the preparation of environmental impact reports required of state and local agencies in Sections 21102 and 21150 of the ~~Public Resources~~ Environment Code.

(h) Coordinate research activities of state government directed to the growth and development of the state and the preservation of environmental quality, render advice to the Governor, his or her Cabinet, to the Legislature, and any agency or department of state government, and provide information to, and cooperate with, the Legislature or any of its committees or officers.

(i) Coordinate the technical assistance provided by state departments and agencies in regional and local planning to assure that such plans are consistent with statewide environmental goals and objectives.

(j) Accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities as will implement the policy and intent of the Legislature as set forth herein.

(k) Develop long-range policies to assist the state and local agencies in meeting the problems presented by the growth and development of urban areas and defining the complementary roles of the state, cities, counties, school districts, and special districts with respect to such growth.

(l) Encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

(m) Assist local government in land use planning.

Comment. Section 65040 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65361 (amended). Extension of time

SEC. ____ . Section 65361 of the Government Code is amended to read:

65361. (a) Notwithstanding any other provision of law, upon application by a city or county, the Director of Planning and Research shall grant a reasonable extension of time not to exceed two years from the date of issuance of the extension, for the preparation and adoption of all or part of the general plan, if the legislative body of the city or county, after a public hearing, makes any of the following findings:

(1) Data required for the general plan shall be provided by another agency and it has not yet been provided.

(2) In spite of sufficient budgetary provisions and substantial recruiting efforts, the city or county has not been able to obtain necessary staff or consultant assistance.

(3) A disaster has occurred requiring reassignment of staff for an extended period or requiring a complete reevaluation and revision of the general plan, or both.

(4) Local review procedures require an extended public review process that has resulted in delaying the decision by the legislative body.

(5) The city or county is jointly preparing all or part of the general plan with one or more other jurisdictions pursuant to an existing agreement and timetable for completion.

(6) Other reasons exist that justify the granting of an extension, so that the timely preparation and adoption of a general plan is promoted.

(b) The director shall not grant an extension of time for the preparation and adoption of a housing element except in the case of a newly incorporated city or newly formed county that cannot meet the deadline set by Section 65360. Before the director grants an extension of time pursuant to this subdivision, he or she shall consult with the Director of Housing and Community Development.

(c) The application for an extension shall contain all of the following:

(1) A resolution of the legislative body of the city or county adopted after public hearing setting forth in detail the reasons why the general plan was not previously adopted as required by law or needs to be revised, including one or more of the findings made by the legislative body pursuant to subdivision (a), and the amount of additional time necessary to complete the preparation and adoption of the general plan.

(2) A detailed budget and schedule for preparation and adoption of the general plan, including plans for citizen participation and expected interim action. The budget and schedule shall be of sufficient detail to allow the director to assess the progress of the applicant at regular intervals during the term of the extension. The schedule shall provide for adoption of a complete and adequate general plan within two years of the date of the application for the extension.

(3) A set of proposed policies and procedures which would ensure, during the extension of time granted pursuant to this section, that the land use proposed in an application for a subdivision, rezoning, use permit, variance, or building permit will be consistent with the general plan proposal being considered or studied.

(d) The director may impose any conditions on extensions of time granted that the director deems necessary to ensure compliance with the purposes and intent of this title. Those conditions shall apply only to those parts of the general plan for which the extension has been granted. In establishing those conditions, the director may adopt or modify and adopt any of the policies and procedures proposed by the city or county pursuant to paragraph (3) of subdivision (c).

(e) During the extension of time specified in this section, the city or county is not subject to the requirement that a complete and adequate general plan be adopted, or the requirements that it be adopted within a specific period of time. Development approvals shall be consistent with those portions of the general plan for which an extension has been granted, except as provided by the conditions imposed by the director pursuant to subdivision (d). Development approvals shall be consistent with any element or elements that have been adopted and for which an extension of time is not sought.

(f) If a city or county that is granted a time extension pursuant to this section determines that it cannot complete the elements of the general plan for which the extension has been granted within the prescribed time period, the city or county may request one additional extension of time, which shall not exceed one year, if the director determines that the city or county has made substantial progress toward the completion of the general plan. This subdivision shall not apply to an extension of time granted pursuant to subdivision (b).

(g) An extension of time granted pursuant to this section for the preparation and adoption of all or part of a city or county general plan is exempt from Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 65361 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65457 (amended). CEQA exemption

SEC. ____. Section 65457 of the Government Code is amended to read:

65457. (a) Any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified after January 1, 1980, is exempt from the requirements of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. However, if after adoption of the specific plan, an event as specified in Section 21166 of the ~~Public Resources~~ Environment Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with the provisions of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. After a supplemental environmental impact report is certified, the exemption specified in this subdivision applies to projects undertaken pursuant to the specific plan.

(b) An action or proceeding alleging that a public agency has approved a project pursuant to a specific plan without having previously certified a supplemental environmental impact report for the

specific plan, where required by subdivision (a), shall be commenced within 30 days of the public agency's decision to carry out or approve the project.

(c) This section does not supersede but provides an alternative procedure to Section 21080.7 of the ~~Public Resources~~ Environment Code.

Comment. Section 65457 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65456 (amended). Specific plan fees

SEC. _____. Section 65456 of the Government Code is amended to read:

65456. (a) The legislative body, after adopting a specific plan, may impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge persons who benefit from specific plans for the costs of developing those specific plans which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan.

(b) Notwithstanding Section 66016, a city or county may require a person who requests adoption, amendment, or repeal of a specific plan to deposit with the planning agency an amount equal to the estimated cost of preparing the plan, amendment, or repeal prior to its preparation by the planning agency.

(c) Copies of the documents adopting or amending the specific plan, including the diagrams and text, shall be made available to local agencies, and shall be made available to the general public as follows:

(1) Within one working day following the date of adoption, the clerk of the legislative body shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(2) Within two working days after receipt of a request for a copy of the documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the clerk shall furnish the requested copy to the person making the request.

(d) A city or county may charge a fee for a copy of a specific plan or amendments to a specific plan in an amount that is reasonably related to the cost of providing that document.

Comment. Section 65456 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65457 (amended). CEQA exemption

SEC. _____. Section 65457 of the Government Code is amended to read:

65457. (a) Any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified after January 1, 1980, is exempt from the requirements of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. However, if after adoption of the specific plan, an event as specified in Section 21166 of the ~~Public Resources~~ Environment Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with the provisions of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. After a supplemental environmental impact report is certified, the exemption specified in this subdivision applies to projects undertaken pursuant to the specific plan.

(b) An action or proceeding alleging that a public agency has approved a project pursuant to a specific plan without having previously certified a supplemental environmental impact report for the specific plan, where required by subdivision (a), shall be commenced within 30 days of the public agency's decision to carry out or approve the project.

(c) This section does not supersede but provides an alternative procedure to Section 21080.7 of the Public Resources Environment Code.

Comment. Section 65457 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65584 (amended). Share of city or county of regional housing needs

SEC. ____ . Section 65584 of the Government Code is amended to read:

65584. (a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county. The distribution of regional housing needs shall, based upon available data take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties which already have disproportionately high proportions of lower income households. Based upon data provided by the Department of Finance, in consultation with each council of government, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The councils of governments shall provide each city and county with the department's information.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). Where the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographic restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grant a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share which was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount which will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county.

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a) of Section 65584.

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d)(1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county which directly limits, by number, the building permits which may be issued for residential construction, or which limits for a set period of time the number of buildable lots which may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county which imposes a moratorium on residential construction for a set period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings which specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(f) A fee may be charged interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to seven days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the provisions of the California Environmental Quality Act, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 65584 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65589.5 (amended). Legislative findings

SEC. ____ . Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds all of the following:

(1) The lack of affordable housing is a critical problem which threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments which limit the approval of affordable housing, increase the cost of land for affordable housing, and require that high fees and exactions be paid by producers of potentially affordable housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions which result in disapproval of affordable housing projects, reduction in density of affordable housing projects, and excessive standards for affordable housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible affordable housing developments which contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without meeting the provisions of subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands to urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project affordable to low- and moderate-income households or condition approval in a manner which renders the project infeasible for development for the use of low- and moderate-income households unless it finds, based upon substantial evidence, one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article and the development project is not needed for the jurisdiction to meet its share of the regional housing need of low-income or very low income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, unavoidable impact, as provided in written standards, policies, or conditions.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and moderate-income households.

(5) The development project is proposed on land zoned for agriculture or resource preservation which is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or waste water facilities to serve the project.

(6) The development project is inconsistent with the jurisdiction's general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Environment Code or otherwise complying with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Public Resources Environment Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with written development standards, conditions, and policies appropriate to, and consistent with, meeting the quantified objectives relative to the development of housing, as required in the housing element pursuant to subdivision (b) of Section 65583. Nor shall anything in this section be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law which are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities, because the Legislature finds that the lack of affordable housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Affordable to low- and moderate-income households" means at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the remaining units shall be sold or rented to either lower income households or persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(3) "Area median income" shall mean area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for the lower income households in accordance with the provisions of this subdivision for 30 years.

(4) "Neighborhood" means a planning area commonly identified as such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(i) If any city, county, or city and county denies approval or imposes restrictions, including a reduction of allowable densities or the percentage of a lot which may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, which have a substantial adverse effect on the viability or affordability of a housing development affordable to low- and moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d).

(j) When a proposed housing development project complies with the applicable general plan, zoning, and development policies in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, unavoidable impact, as provided in written standards, policies, or conditions.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

Comment. Section 65589.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65754.5 (amended). Nonconforming housing developments

SEC. ____ . Section 65754.5 of the Government Code is amended to read:

65754.5. (a) During the pendency of any action described in Section 65754, or when issuing a final judgment in favor of the plaintiff or petitioner finding that the general plan or any element thereof does not conform to the requirements of Article 5 (commencing with Section 65300), the court shall not enjoin the development of any housing development with respect to which all of the following conditions are met:

(1) The legislative body of the city, county, or city and county has approved a development project, as defined by Section 65928, for housing or a specific plan for the housing development and determined the development project for housing or the specific plan to be consistent with the general plan of the city, county, or city and county.

(2) The legislative body of the city, county, or city and county has certified an environmental impact report or a negative declaration for the development project for housing or for the specific plan for housing pursuant to the California Environmental Quality Act, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, and no legal action was brought within the applicable statute of limitations period relating to that environmental impact report or negative declaration.

(3) The owner of the land upon which the housing is proposed to be developed, in satisfaction of any requirements imposed and in reliance upon any action taken by the city, county, or city and county pursuant to paragraphs (1) and (2), has irrevocably committed one million dollars (\$1,000,000), or more, for public infrastructure, including, but not limited to, roads, and water and sewer facilities.

(4) The proposed housing development may be developed without having an impact upon the city, county, or city and county's ability to implement an adequate housing element or to properly adopt an adequate housing element if the court determines, in the pending action, that the general plan or plan element is inadequate. The court shall apply the provisions of Section 65760 to determine whether a housing development will have an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element.

(b) The provisions of this section shall be applicable to any legal action pending on January 1, 1984, and to every action commenced on or after that date.

(c) This section shall not be construed to preclude a public agency from exercising discretion, in a manner authorized by any other provision of law, to alter plans, zoning, or subsequent development approvals applicable to those lands, or from enacting and enforcing further regulations upon their use.

Comment. Section 65754.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65759 (amended). CEQA exemption

SEC. ____. Section 65759 of the Government Code is amended to read:

65759. In any action brought under this section:

(a) The California Environmental Quality Act, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code, does not apply to any action necessary to bring its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article.

(1) The local agency shall, however, prepare an initial study, within the time limitations specified in Section 65754, to determine the environmental effects of the proposed action necessary to comply with the court order. The initial study shall contain substantially the same information as is required for an initial study pursuant to subdivision (c) of Section 15080 of Title 14 of the California Code of Regulations.

(2) If as a result of the initial study, the local agency determines that the action may have a significant effect on the environment, the local agency shall prepare, within the time limitations specified in Section 65754, an environmental assessment, the content of which substantially conforms to the required content for a draft environmental impact report set forth in Article 9 (commencing with Section 15140) of Title 14 of the California Code of Regulations. The local agency shall include notice of the preparation of the environmental assessment in all notices provided for the amendments to the general plan proposed to comply with the court order.

(3) The environmental assessment shall be deemed to be a part of the general plan and shall only be reviewable as provided in this article.

(4) The local agency may comply with the provisions of the California Environmental Quality Act, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code, in any action necessary to bring its general plan or the plan's relevant mandatory elements into compliance with any court order or judgment under this section so long as it does so within the time limitations specified in Section 65754.

(b) The court for good cause shown may grant not more than two extensions of time, not to exceed a total of 240 days, in order to meet the requirements imposed by Section 65754.

Comment. Section 65759 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65762 (amended). Applicable law

SEC. ____. Section 65762 of the Government Code is amended to read:

65762. Nothing in this article shall prohibit a court from invalidating any development permit based on failure to comply with the Subdivision Map Act, Division 2 (commencing with Section 66401) of Title 7 of the Government Code, the California Environmental Quality Act, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code, the Planning and Zoning Law, Title 7 (commencing with Section 65000) of the Government Code, or other applicable laws.

The procedures and remedies set forth in this article shall not be construed to affect the substantive standards of court review of a general plan or of other local government land use decisions. The

remedies set forth in this article are interim measures which shall have no application after a general plan has been revised to substantially comply with state law.

Comment. Section 65762 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65914 (amended). Litigation costs

SEC. _____. Section 65914 of the Government Code is amended to read:

65914. (a) In any civil action or proceeding, including but not limited to an action brought pursuant to Section 21167 of the ~~Public Resources~~ Environment Code, against a public entity which has issued planning, subdivision, or other approvals for a housing development, to enjoin the carrying out or approval of a housing development or to secure a writ of mandate relative to the approval of, or a decision to carry out the housing development, the court, after entry of final judgment and the time to appeal has elapsed, and after notice to the plaintiff or plaintiffs, may award all reasonably incurred costs of suit, including attorney's fees, to the prevailing public entity if it finds all of the following:

(1) The housing development meets or exceeds the requirements for low- and moderate-income housing as set forth in Section 65915.

(2) The action was frivolous and undertaken with the primary purpose of delaying or thwarting the low- or moderate-income nature of the housing development or portions thereof.

(3) The public entity making application for costs under this section has prevailed on all issues presented by the pleadings, and, if an intervenor, the public entity actively, through counsel or otherwise, took part on a continuing basis in the defense of the lawsuit.

(4) A demand for a preliminary injunction was made by the plaintiff and denied by a court of competent jurisdiction, such denial not having been reversed on appeal, or the action or proceeding was dismissed as a result of a motion for summary judgment by any defendant, and not reversed on appeal.

(b) In any appeal of any action described in subdivision (a), the reviewing court may award all reasonably incurred costs of suit, including attorney's fees, to the prevailing public entity if the court reviews and upholds the trial court's findings with respect to paragraphs (1) to (4), inclusive, of subdivision (a).

Comment. Section 65914 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65941 (amended). Project application

SEC. _____. Section 65941 of the Government Code is amended to read:

65941. (a) The information compiled pursuant to Section 65940 shall also indicate the criteria which the agency will apply in order to determine the completeness of any application submitted to it for a development project.

(b) If a public agency is a lead or responsible agency for purposes of the California Environmental Quality Act, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, that criteria shall not require the applicant to submit the informational equivalent of an environmental impact report as part of a complete application, or to otherwise require proof of compliance with that act as a prerequisite to a permit application being deemed complete. However, that criteria may require sufficient information to permit the agency to make the determination required by Section 21080.1 of the ~~Public Resources~~ Environment Code.

(c) Consistent with this chapter, a responsible agency shall, at the request of the applicant, commence processing a permit application for a development project prior to final action on the project by a lead agency to the extent that the information necessary to commence the processing is available. For purposes of this subdivision, "lead agency" and "responsible agency" shall have the same meaning as those terms are defined in Section 21067 of the ~~Public Resources~~ Environment Code and Section 21069 of the ~~Public Resources~~ Environment Code, respectively.

Comment. Section 65941 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65942 (amended). Revision of information and criteria

SEC. _____. Section 65942 of the Government Code is amended to read:

65942. The information and the criteria specified in Sections 65940, 65941, 65941.5 shall be revised as needed so that they shall be current and accurate at all times. Any revisions shall apply prospectively only and shall not be a basis for determining that an application is not complete pursuant to Section 65943 if the application was received before the revision is effective except for revisions for the following reasons resulting from the conditions which were not known and could not have been known by the public agency at the time the application was received:

(a) To provide sufficient information to permit the public agency to make the determination required by Section 21080.1 of the ~~Public Resources~~ Environment Code, as provided by Section 65941.

(b) To comply with the enactment of new or revised federal, state, or local requirements, except for new or revised requirements of a local agency which is also the lead agency.

Comment. Section 65942 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65944 (amended). Further information

SEC. _____. Section 65944 of the Government Code is amended to read:

65944. (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.

(c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 65944 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65950 (amended). Period for agency action

SEC. _____. Section 65950 of the Government Code is amended to read:

65950. (a) Any public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the ~~Public Resources~~ Environment Code for the development project.

(2) Sixty days from the date of adoption by the lead agency of the negative declaration if a negative declaration is completed and adopted for the development project.

(3) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) if the project is exempt from the California Environmental Quality Act.

(b) Nothing in this section precludes a project applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(c) For purposes of this section, “lead agency” and “negative declaration” shall have the same meaning as those terms are defined in Sections 21067 and 21064 of the Public Resources Environment Code, respectively.

Comment. Section 65950 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 65950.1 (amended). Extension of time

SEC. _____. Section 65950.1 of the Government Code is amended to read:

65950.1. Notwithstanding Section 65950, if there has been an extension of time pursuant to Section 21100.2 or 21151.5 of the Public Resources Environment Code to complete and certify the environmental impact report, the lead agency shall approve or disapprove the project within 90 days after certification of the environmental impact report.

Comment. Section 65950.1 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 65951 (amended). Combined environmental impact report and statement

SEC. _____. Section 65951 of the Government Code is amended to read:

65951. In the event that a combined environmental impact report-environmental impact statement is being prepared on a development project pursuant to Section ~~21083.6~~ of the Public Resources Environment Code, a lead agency may waive the time limits established in Section 65950. In any event, such lead agency shall approve or disapprove such project within 60 days after the combined environmental impact report-environmental impact statement has been completed and adopted.

Comment. Section 65951 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov’t Code § 65957.5 (amended). Appeal of subdivision or construction conditions

SEC. _____. Section 65957.5 of the Government Code is amended to read:

65957.5. (a) Whenever the director of a Department of Transportation highway district recommends to a public agency considering an application to subdivide real property or to issue a construction permit that the agency impose certain conditions on its approval of the application, the applicant may appeal the district director’s recommendation.

(b) The Department of Transportation shall adopt regulations prescribing procedures for effecting an appeal pursuant to subdivision (a). The appeal shall be made in writing to the Director of Transportation. The director’s decision on the appeal shall be rendered within 60 calendar days after receipt of the appeal, and the director’s written determination shall be transmitted to the appellant and to the agency to whom the appealed recommendation was made. The adopted regulations shall require the appellant to pay to the department a fee of not more than 50 percent of the estimated administrative cost to the department of conducting the appeal.

(c) The appeal process, including the director’s written determination, shall be completed at least 60 days prior to completion of the period of public review for a draft environmental impact report or a negative declaration prescribed by Section 21091 of the Public Resources Environment Code.

Comment. Section 65957.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65992 (amended). Application of CEQA

SEC. _____. Section 65992 of the Government Code is amended to read:

65992. This chapter is not a limitation on the authority of any public agency pursuant to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 65992 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 65996 (amended). Mitigation for adequacy of school facilities

SEC. _____. Section 65996 of the Government Code is amended to read:

65996. (a) The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project, as defined in Section 53080, pursuant to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code:

(1) Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code.

(2) Chapter 25 (commencing with Section 17785) of Part 10 of the Education Code.

(3) Chapter 28 (commencing with Section 17870) of Part 10 of the Education Code.

(4) Article 2.5 (commencing with Section 39327) of Chapter 3 of Part 23 of the Education Code.

(5) Section 53080 of the Government Code.

(6) Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code.

(7) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code.

(b) No public agency shall, pursuant to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code or Division 2 (commencing with Section 66410) of this code, deny approval of a project on the basis of the adequacy of school facilities.

(c) This section shall become inoperative on January 1, 1993, and shall remain inoperative until the date that Assembly Constitutional Amendment 6 of the 1991-92 Regular Session fails to receive the approval of a majority of the voters voting on the measure, and as of that date this section shall become operative.

Comment. Section 65996 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66030 (amended). Legislative findings and intent

SEC. _____. Section 66030 of the Government Code is amended to read:

66030. (a) The Legislature finds and declares all of the following:

(1) Current law provides that aggrieved agencies, project proponents, and affected residents may bring suit against the land use decisions of state and local governmental agencies. In practical terms, nearly anyone can sue once a project has been approved.

(2) Contention often arises over projects involving local general plans and zoning, redevelopment plans, the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), development impact fees, annexations and incorporations, and the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

(3) When a public agency approves a development project that is not in accordance with the law, or when the prerogative to bring suit is abused, lawsuits can delay development, add uncertainty and cost to the development process, make housing more expensive, and damage California's competitiveness. This litigation begins in the superior court, and often progresses on appeal to the Court of Appeal and the Supreme Court, adding to the workload of the state's already overburdened judicial system.

(b) It is, therefore, the intent of the Legislature to help litigants resolve their differences by establishing formal mediation processes for land use disputes. In establishing these mediation

processes, it is not the intent of the Legislature to interfere with the ability of litigants to pursue remedies through the courts.

Comment. Section 66030 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66031 (amended). Mediation

SEC. ____ Section 66031 of the Government Code is amended to read:

66031. (a) Notwithstanding any other provision of law, any action brought in the superior court relating to any of the following subjects may be subject to a mediation proceeding conducted pursuant to this chapter:

- (1) The approval or denial by a public agency of any development project.
- (2) Any act or decision of a public agency made pursuant to the California Environmental Quality Act (Division 13 ~~3~~ (commencing with Section 21000) of the ~~Public Resources Environment~~ Code).
- (3) The failure of a public agency to meet the time limits specified in Chapter 4.5 (commencing with Section 65920), commonly known as the Permit Streamlining Act, or in the Subdivision Map Act (Division 2 (commencing with Section 66410)).
- (4) Fees determined pursuant to Sections 53080 to 53082, inclusive, or Chapter 4.9 (commencing with Section 65995).
- (5) Fees determined pursuant to Chapter 5 (commencing with Section 66000).
- (6) The adequacy of a general plan or specific plan adopted pursuant to Chapter 3 (commencing with Section 65100).
- (7) The validity of any sphere of influence, urban service area, change of organization or reorganization, or any other decision made pursuant to the Cortese-Knox Local Government Reorganization Act (Division 3 (commencing with Section 56000) of Title 5).
- (8) The adoption or amendment of a redevelopment plan pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).
- (9) The validity of any zoning decision made pursuant to Chapter 4 (commencing with Section 65800).
- (10) The validity of any decision made pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.

(b) Within five days after the deadline for the respondent or defendant to file its reply to an action, the court may invite the parties to consider resolving their dispute by selecting a mutually acceptable person to serve as a mediator, or an organization or agency to provide a mediator.

(c) In selecting a person to serve as a mediator, or an organization or agency to provide a mediator, the parties shall consider the following:

- (1) The council of governments having jurisdiction in the county where the dispute arose.
- (2) Any subregional or countywide council of governments in the county where the dispute arose.
- (3) The Office of Permit Assistance within the Trade and Commerce Agency, pursuant to its authority in Article 1 (commencing with Section 15399.50) of Chapter 11 of Part 6.7 of Division 3 of Title 2.

(4) Any other person with experience or training in mediation including those with experience in land use issues, or any other organization or agency which can provide a person with experience or training in mediation, including those with experience in land use issues.

(d) If the court invites the parties to consider mediation, the parties shall notify the court within 30 days if they have selected a mutually acceptable person to serve as a mediator. If the parties have not selected a mediator within 30 days, the action shall proceed. The court shall not draw any implication, favorable or otherwise, from the refusal by a party to accept the invitation by the court to consider mediation. Nothing in this section shall preclude the parties from using mediation at any other time while the action is pending.

Comment. Section 66031 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66452.1 (amended). Time periods

SEC. _____. Section 66452.1 of the Government Code is amended to read:

66452.1. (a) If the advisory agency is not authorized by local ordinance to approve, conditionally approve or disapprove the tentative map, it shall make its written report on the tentative map to the legislative body within 50 days after the filing thereof with its clerk.

(b) If the advisory agency is authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, it shall take that action within 50 days after the filing thereof with its clerk and report its action to the subdivider.

(c) The local agency shall comply with the time periods referred to in Section 21151.5 of the Public Resources Environment Code. The time periods specified in subdivisions (a) and (b) shall commence after certification of the environmental impact report, adoption of a negative declaration, or a determination by the local agency that the project is exempt from the requirements of Division ~~13~~ 3 (commencing with Section 21000) of the Public Resources Environment Code.

Comment. Section 66452.1 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66452.2 (amended). Time for consideration of tentative map

SEC. _____. Section 66452.2 of the Government Code is amended to read:

66452.2. (a) If there is an advisory agency which is not authorized by local ordinance to approve, conditionally approve or disapprove the tentative map, at the next regular meeting of the legislative body following the filing of the advisory agency's report with it, the legislative body shall fix the meeting date at which the tentative map will be considered by it, which date shall be within 30 days thereafter and the legislative body shall approve, conditionally approve, or disapprove the tentative map within that 30-day period.

(b) If there is no advisory agency, the clerk of the legislative body shall submit the tentative map to the legislative body at its next regular meeting which shall approve, conditionally approve or disapprove that map within 50 days thereafter.

(c) The local agency shall comply with the time periods referred to in Section 21151.5 of the Public Resources Environment Code. The time periods specified in subdivisions (a) and (b) shall commence after certification of the environmental impact report, adoption of a negative declaration, or a determination by the local agency that the project is exempt from the requirements of Division ~~13~~ 3 (commencing with Section 21000) of the Public Resources Environment Code.

Comment. Section 66452.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66474.01 (amended). Approval of tentative or parcel map

SEC. _____. Section 66474.01 of the Government Code is amended to read:

66474.01. Notwithstanding subdivision (e) of Section 66474, a local government may approve a tentative map, or a parcel map for which a tentative map was not required, if an environmental impact report was prepared with respect to the project and a finding was made pursuant to paragraph (3) of subdivision (a) of Section 21081 of the Public Resources Environment Code that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Comment. Section 66474.01 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66498.8 (amended). Ordinances or resolutions to implement chapter

SEC. _____. Section 66498.8 of the Government Code is amended to read:

66498.8. (a) On or before January 1, 1986, a city, county, or city and county shall adopt ordinances or resolutions necessary or appropriate for the implementation of this chapter.

(b) If a city, county, or city and county receives a written request to implement this chapter, it shall adopt any ordinances or resolutions it determines necessary or appropriate to implement this chapter. The city, county, or city and county shall adopt the ordinances or resolutions not more than 120 days from the date the request is made and any fee is paid to cover the direct expenses the city, county, or city and county determines it will incur in processing the ordinances or resolutions. The city, county, or city and county may arrange, with the person making the request, to collect fees from subdividers filing vesting tentative maps and to reimburse the person requesting the ordinance or resolution for any costs so advanced by that person.

(c) The local agency may charge subdividers who file vesting tentative maps a fee in an amount sufficient to recover the direct costs associated with establishing and adopting ordinances or resolutions pursuant to subdivision (a) or (b).

(d) No ordinances or resolutions adopted pursuant to subdivision (a) may require more information than that related to ordinances, resolutions, policies, or standards for the design, development, or improvement relating to the conferred rights, except where necessary:

(1) To permit the public agency to make the determination required by Section 21080.1 of the Public Resources Environment Code, as provided by Section 65941.

(2) To comply with federal or state requirements.

Comment. Section 66498.8 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66666 (amended). Existing regulatory authority

SEC. _____. Section 66666 of the Government Code is amended to read:

66666. No provision of this chapter shall be construed to change any existing regulatory authority under Division 6 (commencing with Section 6001), Division 7 (commencing with Section 8600), or Division 13 3 (commencing with Section 21000) of the Public Resources Environment Code, or the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), all of which shall remain in full force and effect. Nothing in this chapter shall be construed to remove or otherwise affect certifications, waivers of certifications, waste discharge requirements, or commission or State Lands Commission permits now or hereafter issued for dredging and disposal projects pursuant to this title or any other applicable provision of state or federal law.

Comment. Section 66666 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 66682 (amended). White Slough Project

SEC. _____. Section 66682 of the Government Code is amended to read:

66682. The commission shall issue a permit for all, or any portion, of the White Slough Project only if the commission finds that the work is consistent with the plan, subdivision (b) of Section 66681, and all of the following requirements have been met:

(a) The city and the county have adopted the necessary implementing ordinances and have amended their general and specific plans.

(b) The department limits the project to a four-lane highway with the minimum medians and shoulders necessary to assure highway safety, and the project does not permit access to the wetlands north of State Highway Route 37.

(c) A minimum fill of tidal areas will result from construction of the combined flood barrier, new sewerline, and widened State Highway Route 37 and associated interchanges, which in no event will result in the loss of more than 13 acres of tidal areas.

(d) Fill of tidal and tidally influenced wetlands will be mitigated on a four-to-one basis in the vicinity of the project, and the mitigation will consist of the acquisition of upland areas which do not presently provide unique or especially significant wildlife habitat and the creation and permanent protection of new wetlands for habitat purposes. The acquisition of the upland areas will take place before construction of the highway project. Creation of new wetlands will be done concurrently with the construction of the highway project and will be monitored by an independent biologist. There shall be assurances that the created wetlands will be fully functional or additional measures shall be taken as described in paragraph (5) of subdivision (b) of Section 66680.

(e) The project will provide a barrier to protect already developed areas of the city from flooding.

(f) The project will include the covering of the flooded sewerline south of State Highway Route 37 and the relocation of the flooded line north of State Highway Route 37 within the area required for the widening of State Highway Route 37.

(g) The project will provide improved water circulation and waterflow throughout South White Slough, so as to minimize algal growth and air pollution and to improve wetland habitat values.

(h) The White Slough Project is the least environmentally damaging, feasible alternative identified pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 66682 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 67675.9 (amended). Closure and reuse of Ford Ord

SEC. ____ . Section 67675.9 of the Government Code is amended to read:

67675.9. If an environmental impact statement on the closure and reuse of Fort Ord has been prepared and filed pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.), the board may proceed in the following manner:

(a) A notice of the preparation of an environmental impact report on the Fort Ord Reuse Plan shall be prepared pursuant to either Section 21080.4 or Section 21080.6 of the ~~Public Resources~~ Environment Code, and shall include a description of the reuse plan and a copy of the environmental impact statement. The notice shall indicate that the board intends to utilize the environmental impact statement as a draft environmental impact report and requests comments on whether, and to what extent, the environmental impact statement provides adequate information to serve as a draft environmental impact report, and what specific additional information, if any, is necessary to comply with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code). The notice shall also indicate the address to which written comments may be sent and the deadline for submitting comments.

(b) Upon the close of the comment period on the notice of preparation, the board may proceed with preparation of the environmental impact report on the reuse plan. The board shall, to the greatest extent feasible, avoid duplication and utilize information in the environmental impact statement consistent with this division. The draft environmental impact report shall consist of all or part of the environmental impact statement and any additional information that is necessary to prepare a draft environmental impact report in compliance with the California Environmental Quality Act.

(c) In all other respects, the environmental impact report for the reuse plan shall be completed in compliance with the California Environmental Quality Act.

Comment. Section 67675.9 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Gov't Code § 91543 (amended). Applicable law

SEC. _____. Section 91543 of the Government Code is amended to read:

91543. All general or special laws or parts thereof inconsistent with this title shall be inapplicable to the exercise of any of the powers conferred under the provisions of this title. Without limiting the generality of the foregoing, the provisions of Divisions 3 (commencing with Section 11000), 4 (commencing with Section 16100), and 5 (commencing with Section 18000) of Title 2 of this code, relating to the executive department of the state, and of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, shall not be applicable to authorities.

Comment. Section 91543 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

HARBORS AND NAVIGATION CODE

Harb. & Nav. Code § 64.5 (amended). Clear lake aquatic weed control

SEC. _____. Section 64.5 of the Harbors and Navigation Code is amended to read:

64.5. The department shall make a grant of funds to Lake County to conduct a pilot project until December 31, 1999, of aquatic weed control on Clear Lake in Lake County under the following conditions:

(a) Lake County has met the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) and, by mutual agreement with the department, agrees to pay a percentage of the cost of the project not to exceed 25 percent.

(b) The aquatic weeds are negatively impacting recreational boating.

(c) The department has received a request from the county agricultural commissioner of Lake County requesting the grant.

(d) Any chemical treatment of aquatic weeds prescribed for the pilot project on Clear Lake, other than those used for the hydrilla eradication or control program pursuant to Article 9 (commencing with Section 6048) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code by the Department of Food and Agriculture, shall be coordinated with the Department of Fish and Game as trustee for fish and wildlife resources in that ecosystem.

Comment. Section 64.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Harb. & Nav. Code § 76.4 (amended). Loan application

SEC. _____. Section 76.4 of the Harbors and Navigation Code is amended to read:

76.4. (a) An application for a loan under Section 76.3 shall be filed with the department and shall:

(1) Include a feasibility study containing sufficient information and detail to demonstrate that the project is engineeringly and financially feasible.

(2) Be processed with due diligence, giving consideration to the needs of the borrower and the interest of the public in preserving the integrity of the Harbors and Watercraft Revolving Fund.

(3) Include evidence of compliance with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(4) Include all costs incurred by the applicant in processing and obtaining loan proceeds.

(b) The costs of brokerage fees, planning studies, and all other costs for the preparation of the loan application shall be borne by the applicant.

Comment. Section 76.4 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Harb. & Nav. Code § 86 (amended). Small craft harbor or boating facility

SEC. _____. Section 86 of the Harbors and Navigation Code is amended to read:

86. (a) The local public agency shall certify to the department that for any small craft harbor or boating facility project which is, or has been, funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3, or a harbor constructed with funds from the State Lands Commission from tidelands oil revenues, adequate restroom and sanitary facilities, parking, refuse disposal, vessel pumpout facilities as required pursuant to Section 776, walkways, oil recycling facilities, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, and other necessary shoreside facilities sufficient for the use and operation of all vessels using the harbor or facility are provided or provide written findings showing why the facility cannot certify to these conditions.

(b) No city, county, or district, which has received or is receiving money under this division for the construction or improvement of small craft harbors which provides facilities for the operation of commercial fishing vessels registered pursuant to Article 4 (commencing with Section 7880) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, shall prohibit the commercial operation and use of those facilities by commercial passenger fishing vessels of the same or similar displacement, which are licensed pursuant to Section 7920 of the Fish and Game Code, or the use by private recreational vessels unless otherwise expressly provided by law, unless the city, county, or district provides, elsewhere in the same harbor, alternative, equivalent facilities available at comparable cost for the commercial operation and use of commercial passenger fishing vessels and private recreational vessels or unless the city, county, or district adopts written findings showing why the existing facility cannot accommodate the operation of commercial fishing vessels, including commercial passenger fishing vessels, or private recreational vessels and why the facility cannot be modified to do so or why alternative, equivalent facilities cannot be provided in the same harbor to accommodate those operations. This subdivision does not require a facility to accept an application for the operation of an additional commercial passenger fishing boat at that facility if the harbor provides alternative, equivalent, adequate, safe facilities at comparable cost for the operation and use of commercial passenger fishing boats or if accommodations for the operation of the additional commercial passenger fishing boat are not reasonably available at the facility under the contract or agreement.

For the purposes of this subdivision, an alternative, equivalent facility in the same harbor shall provide, at comparable cost, adequate restroom and sanitary facilities, parking, refuse disposal, walkways, power and water service, and other shoreside facilities and equivalent docks, water channels, navigation aids, and weather protection, including, but not limited to, breakwaters, which are equivalent to the facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3.

(c) Any loan, grant, contract or agreement, or plan funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 for any small craft harbor or boating facility project shall provide for construction, development, or improvement of facilities to substantially meet the provisions of subdivisions (a) and (b) and to provide vehicular access roads to the harbor or facility, as recommended by the Department of Transportation pursuant to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, unless the reasons for not meeting those provisions and recommendations are set forth in the contract or agreement with the department, or an addendum thereto.

(d) During the term of any existing or new loan contract made pursuant to Section 71.4 or 76.3, or any existing or new contract or agreement pursuant to Section 70, 70.2, or 70.8, the department shall supervise and monitor compliance with subdivisions (b) and (c) and the operation and maintenance of the harbor or facility to assure that the planning, construction, development, or improvement fully complies with this section and the contract or agreement terms and conditions.

(e) For the purposes of this chapter and Chapter 2 (commencing with Section 70), any harbor or facility which is the subject of a contract or agreement as described in subdivision (d), is under the jurisdiction of the department.

Comment. Section 86 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Harb. & Nav. Code § 5955 (amended). Public beaches and inland parks and recreation areas

SEC. _____. Section 5955 of the Harbors and Navigation Code is amended to read:

5955. Notwithstanding the provisions of Sections 5940 to 5954, inclusive, the district may acquire, develop, operate, or maintain public beaches or inland parks and recreation areas without holding the hearings and making the findings required by such provisions if there is compliance with Section 21151 of the ~~Public Resources~~ Environment Code and Section 65402 of the Government Code; provided, however, that the board of supervisors shall hold at least one public hearing prior to the approval of any such project. Harbor improvement district funds may be expended prior to the public hearing for the purpose of obtaining compliance with Section 21151 of the ~~Public Resources~~ Environment Code and Section 65402 of the Government Code.

Comment. Section 5955 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

HEALTH AND SAFETY CODE

Health & Safety Code § 1597.46 (amended). Large family day care homes

SEC. _____. Section 1597.46 of the Harbors and Navigation Code is amended to read:

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to such homes, and complies with subdivision (d) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, if any, or if there is no zoning administrator by the person or persons designated by the planning agency to grant such permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, if any, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to such homes, and complies with subdivision (d) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible, and fees charged for review shall not exceed the costs of the review and permit process. Not less than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle such use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100 foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any of the appeal.

(b) A large family day care home shall not be subject to the provisions of Division 43 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(c) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(d) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Administrative Code. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provision shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(e) No later than April 1, 1984, the State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement the provisions of this section.

Comment. Section 1597.46 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 2291.7 (amended). Lake County mosquito abatement districts

SEC. ____ . Section 2291.7 of the Health and Safety Code is amended to read:

2291.7. In Lake County, any mosquito abatement district, as authorized by the district board, may, notwithstanding Section 2291.3, conduct or contract for algae research projects and algae control or abatement projects for any part of the district. In undertaking these projects, the district board shall comply with the procedures set forth in subdivisions (a), (b), (c), and (d) in order to levy a benefit assessment for these projects.

(a) Prior to levying any benefit assessment, the board shall comply with all of the following:

(1) The board shall adopt a resolution which shall specify its intention to undertake the project. The resolution shall include all of the following:

(A) A description of the plan, including, but not limited to, all of the following:

(i) The causes of the algae.

(ii) Alternative methods and associated costs of algae prevention, reduction, and control.

(iii) Mitigation measures, including mitigation of the effects of potential treatment on humans, and on fish and wildlife habitat.

(iv) The agency or agencies with responsibilities for algae prevention, reduction, and control. The plan may reference the environmental document prepared pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(B) The establishment of a benefit assessment zone or zones.

(C) A description of the properties to be assessed.

(D) A description of the cost of each assessment.

(E) A statement specifying the duration of the assessment.

(2) The board shall hold public hearings after notice has been published for three successive weeks in a newspaper of general circulation published in the county seat.

(3) The board shall send notice of the resolution and of the hearings to those owners of property to be assessed at least 14 days prior to the public hearing.

(4) After the public hearing, the plan shall be approved by a majority of the owners of property to be assessed. The board shall take no action to implement the plan or the assessment until after the plan is approved by a majority of owners of property to be assessed.

(b) Any herbicide application for the purpose of algae abatement pursuant to this section shall be subject to the approval of the Department of Fish and Game. The department shall grant approval unless it is determined that the application would cause significant diminishment of green or yellow-green algae or zooplankton.

(c) The assessments levied pursuant to this section shall be collected at the same time, and in the same manner, as county taxes. The county may deduct its actual costs incurred for collecting the assessments before remitting the balance to the district. The assessments shall be a lien on all the property benefited thereby. Liens for the assessments shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as for the enforcement of liens for county taxes.

(d) For the purposes of an assessment levied under this section, all properties so assessed within a given zone are equally benefited.

The requirements set forth in this section shall only apply to algae research projects and algae control or abatement projects in Lake County.

In enacting this section, the Legislature does not intend to amend the power of any other district to use any other power authorized by this chapter.

Comment. Section 2291.7 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 17960.1 (amended). Private plan checkers

SEC. ____ . Section 17960.1 of the Health and Safety Code is amended to read:

17960.1. (a) The governing body of a local agency may authorize its enforcement agency to contract with or employ a private entity or persons on a temporary basis to perform the plan-checking function.

(b) A local agency need not enter into a contract or employ persons if it determines that no entities or persons are available or qualified to perform the plan-checking services.

(c) Entities or persons employed by a local agency may, pursuant to agreement with the local agency, perform all functions necessary to check the plans and specifications to comply with other requirements imposed pursuant to this part or by local ordinances adopted pursuant to this part, except those functions reserved by this part or local ordinance to the legislative body. A local agency may charge the applicant fees in an amount necessary to defray costs directly attributable to employing or contracting with entities or persons performing services pursuant to this section which the applicant requested.

(d) When there is an excessive delay in checking plans and specifications submitted as a part of an application for a residential building permit, the local agency shall, upon request of the applicant, contract with or employ a private entity or persons on a temporary basis to perform the plan-checking function subject to subdivisions (b) and (c).

(e) For purposes of this section:

(1) "Enforcement agency" means the building department or building division of a local agency.

(2) "Excessive delay" means the enforcement agency of a local agency has taken either of the following:

(A) More than 30 days after submittal of a complete application to complete the structural building safety plan check of the applicant's set of plans and specifications which are suitable for checking . For a discretionary building permit, the time period specified in this paragraph shall commence after certification of the environmental impact report, adoption of a negative declaration, or a determination by the local agency that the project is exempt from Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(B) Including the days actually taken in (A), more than 45 days to complete the checking of the resubmitted corrected plans and specifications suitable for checking after the enforcement agency had returned the plans and specifications to the applicant for correction.

(3) “Local agency” means a city, county, or city and county.

(4) “Residential building” means a one-to-four family detached structure not exceeding three stories in height.

Comment. Section 17960.1 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 19837 (amended). Private plan checkers

SEC. ____ . Section 19837 of the Health and Safety Code is amended to read:

19837. (a) The governing body of a local agency may authorize its enforcement agency to contract with or employ a private entity or persons on a temporary basis to perform plan-checking functions.

(b) A local agency need not enter into a contract or employ persons if it determines that no entities or persons are available or qualified to perform plan-checking services.

(c) Entities or persons employed by a local agency may, pursuant to agreement with the local agency, perform all functions necessary to check the plans and specifications to comply with other requirements imposed pursuant to this part or by local ordinances adopted pursuant to this part, except those functions reserved by this part or local ordinance to the legislative body. A local agency may charge the applicant fees in an amount necessary to defray costs directly attributable to employing or contracting with entities or persons performing services pursuant to this section which the applicant requested.

(d) When there is an excessive delay in checking plans and specifications submitted as a part of an application for a nonresidential permit, for a building, other than a hotel or motel, which is one to three stories, inclusive, in height, as determined by the local agency, the local agency shall, upon request of the applicant, contract with or employ a private entity or persons on a temporary basis to perform the plan-checking function subject to subdivisions (b) and (c).

(e) When there is an excessive delay in checking plans and specifications submitted as a part of an application for a nonresidential permit for the remodeling or tenant improvements of a building, other than a hotel or motel, which is one to three stories, inclusive, in height, as determined by the local agency, the local agency shall, upon request of the applicant, contract with or employ a private entity or persons on a temporary basis to perform the plan-checking function subject to subdivisions (b) and (c).

(f) For purposes of this section:

(1) “Enforcement agency” means the building department or building division of a local agency.

(2) “Excessive delay” means the enforcement agency of a local agency has taken either of the following:

(A) More than 50 days after submittal of a complete application to complete the structural building safety plan check of the applicant’s set of plans and specifications that are suitable for checking. For a discretionary building permit, the time period specified in this paragraph shall commence after certification of the environmental impact report, adoption of a negative declaration, or a determination by the local agency that the project is exempt from Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(B) Including the days actually taken in (A), more than 60 days to complete the checking of the resubmitted corrected plans and specifications suitable for checking after the enforcement agency had returned the plans and specifications to the applicant for correction.

(3) “Local agency” means a city, county, or city and county.

Comment. Section 19837 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25174 (amended). Hazardous Waste Control Account

SEC. ____ . Section 25174 of the Health and Safety Code is amended to read:

25174. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

- (1) The fees collected pursuant to Sections 25174.1, 25205.2, 25205.5, 25205.15, and 25205.16.
- (2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for the oversight of corrective action taken under this chapter.
- (3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.
- (4) Any money received from the federal government pursuant to the federal act.
- (5) Any reimbursements for funds expended from the Hazardous Waste Control Account for services provided by the department pursuant to this chapter, including, but not limited to, the reimbursements required pursuant to Sections 25201.9 and 25205.7.

(b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

- (1) To the department for the administration and implementation of this chapter.
- (2) To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code.
- (3) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.

(4)(A) To the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter.

(B) Notwithstanding subdivision (c), expenditures for the purposes of this paragraph shall not be subject to an interagency or interdepartmental agreement.

(C) On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds appropriated to the office of the Attorney General for the preceding fiscal year pursuant to this paragraph and subdivision (c) of Section 25173.6. The report shall include all of the following:

- (i) A description of cases resolved by the office of the Attorney General through settlement or court order, including the monetary benefit to the department and the state.
- (ii) A description of injunctions or other court orders benefiting the people of the state.
- (iii) A description of any cases in which the Attorney General's Toxic Substance Enforcement Program is representing the department or the state against claims by defendants or responsible parties.
- (iv) A description of other pending litigation handled by the Attorney General's Toxic Substance Enforcement Program.

(D) Nothing in subparagraph (C) shall require the Attorney General to report on any confidential or investigatory matter.

(c) Except for the appropriation to the office of the Attorney General pursuant to paragraph (4) of subdivision (b), expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency or interdepartmental agreement between the department and the state agency receiving the support.

(d) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization, as specified in paragraph (2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year. With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:

(1) The department shall identify, with regard to the permitting of hazardous waste facilities, closure plans, and postclosure permits, the projected allocations of budgets and permitting staff resources for all of the following facilities:

- (A) Hazardous waste facilities managing RCRA hazardous waste.
- (B) Hazardous waste facilities managing non-RCRA hazardous waste.
- (C) Facilities under each tier of the hazardous waste permitting system established pursuant to Article 9 (commencing with Section 25200).

(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the management of RCRA and non-RCRA hazardous waste for all of the following types of regulated facilities and activities:

- (A) Hazardous waste facilities by permit tier.
- (B) Interim status facilities and operations.
- (C) Generators.
- (D) Transporters.
- (E) Response to complaints.

(3) The department shall identify, with regard to the transportation of hazardous waste, the projected allocations of budgets and staff resources for both of the following activities:

- (A) The regulation of hazardous waste transporters.
- (B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation, corrective action, and remedial and removal actions, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

- (A) Removal and remedial actions at military bases.
- (B) Voluntary removal and remedial actions.
- (C) Removal and remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).
- (D) Corrective actions at hazardous waste facilities.
- (E) Other state removal and remedial actions.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

- (A) Determinations pertaining to the classification of hazardous wastes.
- (B) Determinations for variances made pursuant to Section 25143.
- (C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.

(6) The department shall identify projected allocations of budgets and staff resources needed to identify, clean up, store, and dispose of, suspected hazardous substances associated with the investigation of clandestine drug laboratories and other hazardous materials spills.

(7) The department shall identify projected allocations of budgets and staff resources that are necessary for the department to comply with the California Environmental Quality Act (Division 21 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) when making discretionary decisions pursuant to this chapter.

(8) The department shall identify the total cumulative expenditures of the Regulatory Structure Update and Site Mitigation Update projects since their inception, and shall identify the total projected allocations of budgets and staff resources that are needed to continue these projects.

(9) The department shall identify the total projected allocations of budgets and staff resources that are necessary for all other activities proposed to be conducted by the department.

(e) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds which are required to be deposited into the Hazardous Waste Control Account or the Toxic Substances Control Account, the department, with the approval of the Secretary for Environmental Protection, may take any of the following actions:

(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State Board of Equalization, for the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise described in this chapter or Chapter 6.8

(commencing with Section 25300), for deposit into the Hazardous Waste Control Account or the Toxic Substances Control Account.

(2) Administer, or by mutual agreement, contract with a private party or another public agency, for the making of those determinations and the performance of functions that would otherwise be the responsibility of the State Board of Equalization pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, if those activities and functions for which the State Board of Equalization would otherwise be responsible become the responsibility of the department or, by mutual agreement, the contractor selected by the department.

(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.

(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.

(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).

(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.

(j) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Hazardous Waste Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(k) The department shall establish, within the Hazardous Waste Control Account, a reserve of at least one million dollars (\$1,000,000) each year to ensure that all programs funded by the Hazardous Waste Control Account will not be adversely affected by any revenue shortfalls.

Comment. Section 25174 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25198.3 (amended). Cooperative agreements

SEC. ____ . Section 25198.3 of the Health and Safety Code is amended to read:

25198.3. (a) The secretary may enter into any cooperative agreement which meets the requirements of this article.

(b) Each cooperative agreement shall include, but shall not be limited to, all requirements determined to be necessary to meet the requirements of subdivision (e) to do all of the following:

(1) Protect water quality, as determined by the State Water Resources Control Board or the appropriate California regional water quality control board.

(2) Protect air quality, as determined by the State Air Resources Board or the appropriate air pollution control officer.

(3) Provide for proper management of hazardous materials and hazardous wastes, as determined necessary by the Department of Toxic Substances Control.

(4) In making these determinations, the state agencies shall consider any applicable federal environmental and public health and safety laws.

(c) A decision by the secretary whether to enter into a cooperative agreement shall be based on a good faith determination concerning whether a proposed cooperative agreement meets the requirements of this article. The secretary shall take this action within 130 days of a written request by the tribe that the secretary approve a draft cooperative agreement. At least 60 days prior to determining whether to enter into a cooperative agreement, the secretary shall provide notice, and make available for public review and comment, drafts of his or her proposed action and drafts of the findings and determinations that are required by this section. The secretary shall hold a public hearing in the affected area on the proposed action within the time period for taking that action, as specified in this section. Within 10 days after the close of the public review and comment period, the agencies shall complete the determinations required by this section and the secretary shall issue a final decision.

(d) The findings and determinations of the secretary and relevant agencies made pursuant to this section shall explain material differences between state laws and regulations and the proposed tribal or federal functionally equivalent provisions. The findings and determinations do not need to explain each difference between the state and tribal or federal requirements as long as they identify and evaluate whether the material differences meet the requirements of this article, including, but not limited to, providing at least as much protection for public health and safety and the environment as would the state requirements.

(e) Any cooperative agreement executed pursuant to this article shall provide for regulation of the hazardous waste facility through inclusion in the agreement of design, permitting, construction, siting, operation, monitoring, inspection, closure, postclosure, liability, enforcement, and other regulatory provisions applicable to a hazardous waste facility, or which relate to any environmental consequences that may be caused by facility construction or operation, that are functionally equivalent to all of the following:

(1) Article 4 (commencing with Section 13260) of Chapter 4 of, Chapter 5 (commencing with Section 13300) of, and Chapter 5.5 (commencing with Section 13370) of, Division 7 of the Water Code.

(2) Chapter 3 (commencing with Section 41700) of, Chapter 4 (commencing with Section 42300) of, and Chapter 5 (commencing with Section 42700) of, Part 4 of, and Part 6 (commencing with Section 44300) of, Division 26 .

(3) This chapter, Chapter 6.6 (commencing with Section 25249.5), Chapter 6.8 (commencing with Section 25300), and Chapter 6.95 (commencing with Section 25500).

(4) All regulations adopted pursuant to the statutes specified in this section.

(5) Any other provision of state environmental, public health, and safety laws and regulations germane to the hazardous waste facility proposed by the tribe.

(f) The tribal organizational structures or other means of implementing the requirements specified in subdivision (e) are not required to be the same as the state organizational structures or means of implementing its system of regulation.

(g) Neither the approval of any cooperative agreement nor amendments to the agreement, nor any determination of sufficiency provided in Section 25198.5, shall constitute a "project" as defined in Section 21065 of the ~~Public Resources~~ Environment Code and shall not be subject to review pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(h) Each cooperative agreement shall provide for the incorporation of the standards and requirements germane to the protection of the environment, public health, and safety listed in subdivision (e), as enacted, or as those provisions may be amended after January 1, 1992, or after the effective date of any cooperative agreement, if those standards and requirements meet both of the following requirements:

(1) The standards and requirements do not discriminate against a tribe which has executed a cooperative agreement, or a lessee of the tribe, and are applicable to, or not more stringent than, other rules applicable to other similar or analogous facilities or operations outside Indian country.

(2) Adequate notice and opportunity for comment on the incorporation of new and amended standards or requirements are provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

Comment. Section 25198.3 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25198.5 (amended). Review of draft tribal and federal permit

SEC. _____. Section 25198.5 of the Health and Safety Code is amended to read:

25198.5. (a) Each cooperative agreement shall require the public agencies specified in subdivision (b) of Section 25198.3 to review any draft tribal permit and any applicable federal permit to determine whether it contains all conditions sufficient to do all of the following:

(1) Meet the functionally equivalent standards provided in the cooperative agreement, as required by subdivision (e) of Section 25198.3.

(2) Provide not less than the level of protection for public health, safety, and the environment that would have been the case if that state agency had issued the permit.

(3) Implement all feasible mitigation measures. For purposes of this paragraph, “feasible” has the same meaning as in Sections 21001, 21002.1, and 21004 of the ~~Public Resources~~ Environment Code, and any regulations adopted pursuant to those sections.

(b) Each cooperative agreement shall provide that the tribal or federal permits issued for the hazardous waste facility meet the requirements of this section.

(c) The failure of a party to a cooperative agreement to meet the requirements of this section shall be determined to be an actionable breach of the cooperative agreement.

(d) The election by a party to a cooperative agreement to pursue a contractual remedy shall not limit the ability of a party to assert its respective claims of jurisdiction or sovereign immunity.

(e) Entering into a cooperative agreement shall not be a basis for denying any remedy to which a party is otherwise entitled.

(f) Within 10 days of issuance of a final federal permit or tribal permit, a copy of that permit shall be provided to the California Environmental Protection Agency and the tribe having jurisdiction over the facility.

Comment. Section 25198.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25199.7 (amended). Application for hazardous waste facility project

SEC. _____. Section 25199.7 of the Health and Safety Code is amended to read:

25199.7. (a) At least 90 days before filing an application for a land use decision for a specified hazardous waste facility project with a local agency, the proponent shall file a notice of intent to make the application with the Office of Permit Assistance in the Office of Planning and Research and with the applicable city or county. The notice of intent shall specify the location to which the notice of intent is applicable and shall contain a complete description of the nature, function, and scope of the project. The Office of Permit Assistance shall immediately notify affected state agencies of the notice of intent. The local agency shall publish a notice in a newspaper of general circulation in the area affected by the proposed project, shall post notices in the location where the proposed project is located, and shall notify, by a direct mailing, the owners of contiguous property, as shown in the latest equalized assessment roll. A notice of intent filed with a local agency shall be accompanied by a fee which shall be set by the local agency in an amount equal to the local agency’s cost of processing the notice of intent and carrying out the notification requirements of this subdivision. A notice of intent is not transferable to a location other than the location specified in the notice and shall remain in effect for one year from the date it is filed with a local agency or until it is withdrawn by the proponent, whichever is earlier.

(b) A notice of intent is not effective and a proponent may not file an application for a land use decision for a specified hazardous waste facility project with a local agency unless the proponent has first complied with subdivision (a).

(c) Within 90 days after a notice of intent is filed with the Office of Permit Assistance pursuant to subdivision (a), the office shall convene a public meeting in the affected city or county to inform the public on the nature, function, and scope of the proposed specified hazardous waste facility project and the procedures that are required for approving applications for the project.

(d) The legislative body of the affected local agency shall appoint a seven member local assessment committee to advise it in considering an application for a land use decision for a specified hazardous waste facility project. The members of the local assessment committee may be appointed at any time after the notice of intent is filed with the local agency but shall be appointed not later than 30 days after the application for the land use decision is accepted as complete by the local agency. The local agency shall charge the project proponent a fee to cover the local agency's costs of establishing and convening the local assessment committee. The fee shall accompany the application for a land use decision.

(1) The membership of the committee shall be broadly constituted to reflect the makeup of the community, and shall include three representatives of the community at large, two representatives of environmental or public interest groups, and two representatives of affected businesses and industries. Members of local assessment committees selected pursuant to this subdivision shall have no direct financial interest, as defined in Section 87103 of the Government Code, in the proposed specified hazardous waste facility project.

(2) The local assessment committee shall, as its primary function, advise the appointing legislative body of the affected local agency of the terms and conditions under which the proposed hazardous waste facility project may be acceptable to the community. To carry out this function, the local assessment committee shall do all of the following:

(A) Enter into a dialogue with the proponent for the proposed hazardous waste facility project to reach an understanding with the proponent on both of the following:

(i) The measures that should be taken by the proponent in connection with the operation of the proposed hazardous waste facility project to protect the public health, safety, and welfare, and the environment of the city or county.

(ii) The special benefits and remuneration the facility proponent will provide the city or county as compensation for the local costs associated with the operation of the facility.

(B) Represent generally, in meetings with the project proponent, the interests of the residents of the city or county and the interests of adjacent communities.

(C) Receive and expend any technical assistance grants made available pursuant to subdivision (g).

(D) Adopt rules and procedures which are necessary to perform its duties.

(E) Advise the legislative body of the city or county of the terms, provisions, and conditions for project approval which have been agreed upon by the committee and the proponent, and of any additional information which the committee deems appropriate. The legislative body of the city or county may use this advice for its independent consideration of the project.

(3) The legislative body of the affected jurisdiction shall provide staff resources to assist the local assessment committee in performing its duties.

(4) A local assessment committee established pursuant to this subdivision shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications for the project for which the committee was convened.

(e) A local agency shall notify the Office of Permit Assistance within 10 days after an application for a land use decision for a specified hazardous waste facility project is accepted as complete by the local agency and, within 60 days after receiving this notice, the Office of Permit Assistance shall convene a meeting of the lead and responsible agencies for the project, the proponent, the local assessment committee, and the interested public, for the purpose of determining the issues which concern the agencies that are required to approve the project and the issues which concern the public. The meeting shall take place in the jurisdiction where the application has been filed.

(f) Following the meeting required by subdivision (e), the proponent and the local assessment committee appointed pursuant to subdivision (d) shall meet and confer on the specified hazardous

waste facility project proposal for the purpose of establishing the terms and conditions under which the project will be acceptable to the community.

(g) (1) If the local assessment committee finds that it requires assistance and independent advice to adequately review a proposed hazardous waste facility project, it may request technical assistance grants from the local agency to enable the committee to hire a consultant. The committee may use technical assistance grant funds made available to it to hire a consultant to do either, or both, of the following:

(A) Assist the committee in reviewing and evaluating the application for the project, the environmental documents prepared for the project pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) and any other documents, materials, and information that are required by a public agency in connection with the application for a land use decision or a permit.

(B) Advise the local assessment committee in its meetings and discussions with the facility proponent to seek agreement on the terms and conditions under which the project will be acceptable to the community.

(2) The local agency shall require the proponent of the proposed hazardous waste facility project to pay a fee equal to the amount of any technical assistance grant provided the local assessment committee under paragraph (1). The funds received as a result of the imposition of the fee shall be used to make technical assistance grants exclusively for the purposes described in paragraph (1).

(3) The local agency shall deposit any fee imposed pursuant to paragraph (2) in an account created in the city or county treasury, maintain records of all expenditures from the account, and return any unused funds and accrued interest to the project proponent upon completion of the review of the proposed hazardous waste facility project.

(h) If the local assessment committee and the proponent cannot resolve any differences through the meetings, the Office of Permit Assistance may assist in this resolution pursuant to Section 25199.4.

(i) This section applies only to a specified hazardous waste facility project.

Comment. Section 25199.7 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25199.8 (amended). Pendency of CEQA litigation

SEC. _____. Section 25199.8 of the Health and Safety Code is amended to read:

25199.8. (a) If an action or proceeding has been commenced in any court to attack, review, set aside, void, or annul the acts or decisions of a lead agency for a specified hazardous waste facility project on the grounds of noncompliance with Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, the proponent may, notwithstanding the action or proceeding, request the responsible agencies for the specified hazardous waste facility project to continue to process applications for approval of permits for the project received and accepted as complete by each responsible agency. If a responsible agency receives such a request, the time limits specified in subdivisions (a), (b), and (c) of Section 25199.6 shall apply.

(b) Except as provided in subdivision (d), if any action or proceeding is commenced to review the acts or decisions of a lead or responsible agency for a specified hazardous waste facility project, the proponent may petition the court to stay the action or proceeding. The court, in its discretion, may stay the action or proceeding until all public agencies for the project have completed reviewing and approving or disapproving the applications for permits for the project. The proponent may, at any time prior to completion of these actions by the lead or responsible agencies, file a petition with the court requesting that the action or proceeding be permitted to proceed and, upon receiving such a petition, the court shall discontinue the stay.

(c) Notwithstanding subdivision (b), a court may enjoin a lead or responsible agency from approving a permit or license if the court finds that the approval would result in an imminent or substantial endangerment of the public health or the environment or if there are other compelling reasons that the action or proceeding should not be stayed.

(d) Subdivision (b) does not apply to an action or proceeding which alleges that a lead or responsible agency has not complied with Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 25199.8 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25199.9 (amended). Appeal of land use decision

SEC. ____ . Section 25199.9 of the Health and Safety Code is amended to read:

25199.9. (a) A proponent may file an appeal of a land use decision made by a local agency for a specified hazardous waste facility project with the Governor or the Governor's designee pursuant to subdivision (b), (c), or (d) and any interested person may file an appeal of a land use decision made by a local agency for a specified hazardous waste facility project pursuant to subdivision (e). The proponent or an interested person shall file the appeal within 30 calendar days after the date the local agency takes final action on the land use decision. If the proposed project would accept or manage both hazardous waste and solid waste, the appeal shall relate only to the local land use decision concerning the hazardous waste portion of the proposed facility. Any decisions of an appeal board involving the proposed facility shall affect only the hazardous waste portion of the local land use decision.

(b) If an application for a land use decision for a specified hazardous waste facility project is disapproved by a local agency, the proponent for the specified hazardous waste facility project may file an appeal of the disapproval with the Governor or the Governor's designee. The Governor or the Governor's designee shall convene an appeal board pursuant to Section 25199.10 to hear the appeal pursuant to this subdivision if the proponent has applied for, and obtained, all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies.

(c)(1) Notwithstanding subdivision (b), if an application for a land use decision for a specified hazardous waste facility project is disapproved by a local agency before an environmental impact report for the project is prepared and certified, as specified in Section 21151 of the ~~Public Resources~~ Environment Code, or before a negative declaration for the project is adopted pursuant to subdivision (c) of Section 21080 of the ~~Public Resources~~ Environment Code, the proponent may file an appeal of the disapproval with the Governor or the Governor's designee.

(2) Within 30 days after an appeal is filed pursuant to this subdivision, the Governor or the Governor's designee shall convene an appeal board, pursuant to Section 25199.10. The appeal board shall thereafter be the lead agency for the specified hazardous waste facility project and shall perform the duties specified in, and carry out the actions required by, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. The proponent may apply for those permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies, at any time before or after the appeal board's compliance with actions required by Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. The time limits specified in subdivisions (a), (b), and (c) of Section 25199.6 apply to these responsible agencies except that, for the purposes of these time limits, the date when the appeal board has complied with all actions required by Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code shall be deemed equivalent to the date when a lead agency decides to approve or disapprove a project.

(3) After the proponent has applied for and obtained the permits specified in paragraph (2), the proponent for the specified hazardous waste facility project may request the Governor or the Governor's designee to reconvene the appeal board to hear the appeal. The Governor or the Governor's designee shall reconvene the appeal board pursuant to Section 25199.10 to hear the appeal of a disapproval pursuant to this subdivision if it has been demonstrated to the Governor or the Governor's designee that the proponent has applied for, and obtained, all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies.

(d) If an application for a land use decision for a specified hazardous waste facility project is approved by a local agency, the proponent for the specified hazardous waste facility project may file an appeal of one or more conditions imposed by the land use decision with the Governor or the Governor's designee. An appeal filed under this subdivision shall specify the particular condition or conditions imposed by the land use decision that are appealed and shall be based solely on the grounds that the condition or conditions imposed on the operation of the facility by the land use decision are so onerous and restrictive that their imposition is the same as a disapproval of the application for a land use decision. The Governor or the Governor's designee shall convene an appeal board pursuant to this subdivision if the proponent has applied for, and obtained, all permits for the specified hazardous waste facility project which can be obtained prior to its construction from those responsible agencies which are state agencies.

(e) If an application for a land use decision for a specified hazardous waste facility project is approved by a local agency, any interested person may file an appeal of the approval with the Governor or the Governor's designee. An appeal may be filed pursuant to this subdivision only if the appeal is based solely on the grounds that the conditions imposed on the project by the land use decision do not adequately protect the public health, safety, or welfare. The Governor or the Governor's designee shall convene an appeal board pursuant to this subdivision if the proponent for the specified hazardous waste facility project has applied for, and obtained, all permits for the project which can be obtained prior to its construction from those responsible agencies which are state agencies. An interested person filing an appeal pursuant to this subdivision shall state in the appeal why the conditions imposed by the land use decision do not adequately protect the public health, safety, or welfare and shall specify the additional condition or conditions which are necessary to provide that protection.

Comment. Section 25199.9 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25200.11 (amended). Final action on hazardous waste facility permit

SEC. ____ . Section 25200.11 of the Health and Safety Code is amended to read:

25200.11. (a) On or before July 1, 1993, the department shall take final action on each application for a hazardous waste facilities permit to be issued pursuant to Section 25200 for an offsite hazardous waste facility which is not subject to the time limits specified in Section 25200.7 and which has been operating under a grant of interim status pursuant to Section 25200.5 prior to January 1, 1992, if the permit application was submitted to the department before January 1, 1992. In taking final action pursuant to this section, the department shall either issue the hazardous waste facilities permit or make a final denial of the application. The department may extend final action for one year upon its determination that the permit application is complete and that more time is needed for review and evaluation of the application.

(b) On July 1, 1992, interim status granted for any existing offsite hazardous waste facility, which is not subject to the time limits specified in Section 25200.7, shall be terminated, unless the department has received an application for a final hazardous waste facilities permit pursuant to Section 25200 on or before June 30, 1992.

(c) Except for facilities subject to Section 25201.6, for any offsite facility, which facility or portion of facility was first granted interim status pursuant to Section 25200.5 on or after January 1, 1992, the department shall provide public notice for a permit determination to issue or deny a hazardous waste facilities permit for the facility, including a permit modification to incorporate a portion of a facility operating under a grant of interim status, not later than the following dates:

(1) For interim status that was first granted on or after January 1, 1992, but prior to January 1, 1994, not more than four years from the date that interim status was first granted.

(2) For interim status that was first granted on or after January 1, 1994, but prior to January 1, 1996, not more than three years from the date that interim status was first granted.

(3) For interim status that was granted on or after January 1, 1996, not more than two years from the date that interim status was first granted.

(d) For purposes of complying with this section, any change in the owner or operator of the hazardous waste facility shall not affect the applicability of this section with respect to permit determinations required for the facility, including a permit modification to incorporate a portion of the facility operating under a grant of interim status.

(e) The department shall update and make available to the public, by March 1 and September 1 of each year, a status report and workplan describing its efforts in permitting and regulating offsite facilities operating under a grant of interim status pursuant to Section 25200.5, including permit modifications to incorporate a portion of a facility operating under a grant of interim status, except those facilities subject to Section 25201.6. The status report and workplan shall include all of the following elements:

(1) A listing of all offsite facilities, or portions of facilities, operating under a grant of interim status, the date on which the grant of interim status was first made, the schedule for making a permit determination, and a description of the department's resources that are committed to permitting, regulating, and overseeing interim status activities at these facilities.

(2) A status report on enforcement and other regulatory activities that have been taken by the department to ensure that these facilities are operating in compliance with the interim status authority granted by the department pursuant to this chapter.

(f)(1) Except as provided in paragraph (2), on or before July 1, 1997, for any facility operating under a grant of interim status pursuant to Section 25200.5, based on operations conducted on November 19, 1980, the department shall review the basis for the grant of interim status, including any amendments of that grant, and shall prepare status reports concerning the results of that review. If the department discovers an error in the scope of a grant of interim status made before July 1, 1997, and the error was caused in whole, or in part, by an intentional or negligent false statement or representation in the documents filed for purposes of establishing or obtaining interim status, the department shall take immediate action to correct the error, to the full extent authorized by law. In determining whether the scope of a grant of interim status made before July 1, 1997, complies with this chapter, the department shall require evidence other than facility owner or operator or employee declarations pertaining to previous activities that are the basis for that eligibility for interim status.

(2) Paragraph (1) does not apply to a facility for which, on or before March 1, 1997, a draft permit has been issued by and is being processed by the department, a draft environmental impact report, or other appropriate document prepared pursuant to the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) has been issued and made available for public comment and the environmental impact report or other document prepared pursuant to the California Environmental Quality Act considers all impacts to the environment from facility operations, including, at a minimum, all changes to operations since November 19, 1980, that were not addressed by a previous finally approved document prepared pursuant to the California Environmental Quality Act. The issuance of an appropriate document under the California Environmental Quality Act shall be deemed to have been issued for purposes of this paragraph if the lead agency has determined in writing that no further document is necessary under that act for purposes of the permit issuance.

Comment. Section 25200.11 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25200.12 (amended). Modification to offsite facility

SEC. ____ . Section 25200.12 of the Health and Safety Code is amended to read:

25200.12. A modification to an offsite facility operating under interim status pursuant to Section 25200.5 that requires a revised Part A application pursuant to Article 4 (commencing with Section 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the California Code of Regulations, as that article read on January 1, 1992, is a discretionary project for purposes of subdivision (a) of Section 21080 of the ~~Public Resources~~ Environment Code and is subject to the requirements of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, unless the

modification is otherwise excluded from that division pursuant to paragraphs (2) to (15), inclusive, of subdivision (b) of Section 21080 of the ~~Public Resources~~ Environment Code.

Comment. Section 25200.12 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25299.4 (amended). Design and construction standards

SEC. ____ . Section 25299.4 of the Health and Safety Code is amended to read:

25299.4. (a) (1) Any local agency may apply to the board for authority to implement design and construction standards for the containment of a hazardous substance in underground storage tanks which are in addition to those set forth in this chapter. The application shall include a description of the additional standards and a discussion of the need to implement them. The board shall approve the application if it finds, after an investigation and public hearing, that the local agency has demonstrated by clear and convincing evidence that the additional standards are necessary to adequately protect the soil and the beneficial uses of the waters of the state from unauthorized releases.

(2) The board shall make its determination within six months of the date of application for authority to implement additional standards. If the board's determination upholds the application for authority to implement additional standards, the standards shall be effective as of the date of the determination. If the board's determination does not uphold the application, the additional standards shall not go into effect.

(b) (1) Any permit holder or permit applicant may apply to the regional board having jurisdiction over the location of the permit holder or applicant's facility for a site-specific variance from Section 25291 or 25292. A site-specific variance is an alternative procedure which is applicable in one local agency jurisdiction. Prior to applying to the regional board, the permit holder shall first contact the local agency pursuant to paragraph (5).

(2) The regional board shall hold a public hearing 60 days after the completion of any documents required by the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(3) The regional board shall consider the local agency's and the city, county, or city and county's recommendations in rendering its decision. Failure of the local agency or city, county, or city and county to join in the variance application pursuant to paragraph (5) shall not affect the request of the applicant to proceed with the variance application.

(4) The regional board shall approve the variance if it finds, after investigation and public hearing, that the applicant has demonstrated by clear and convincing evidence either of the following:

(A) Because of the facility's special circumstances, not generally applicable to other facilities' property, including size, shape, design, topography, location, or surroundings, the strict application of Sections 25291 and 25292 is unnecessary to adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(B) Strict application of the standards of Sections 25291 and 25292 would create practical difficulties not generally applicable to other facilities or property and that the proposed alternative will adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(5) Before applying for a variance, the applicant shall contact the local agency to determine if a site-specific variance is required. If the local agency determines that a site-specific variance is required or does not act within 60 days, the applicant may proceed with the variance procedure in subdivision (a).

(6) At least 30 days before applying to the appropriate regional board, the applicant shall notify and request the city, county, or city and county to join the applicant in the variance application before the regional board.

(A) The city, county, or city and county shall provide notice of the receipt of that request to any person who has requested the notice.

(B) The local agency within the city, county, or city and county which has the jurisdiction for land use decisions shall have 30 days from completion of any documents required by the California

Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) to act on the applicant's request to join the applicant.

(c) Applicants requesting a variance pursuant to subdivision (b) shall pay a fee determined by the board to be necessary to recover the reasonable cost of administering subdivision (b).

(d) The permit issued for any underground storage tank issued a variance pursuant to subdivision (b) shall require compliance with any conditions prescribed by the board or a regional board in issuing the variance. The conditions prescribed by the board or regional board in the permit shall include any conditions necessary to assure compliance with any applicable requirements of the federal act.

(e) This section does not apply to or within any city or county which was exempt from implementing this chapter as of December 31, 1984.

Comment. Section 25299.4 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25352 (amended). Appropriation of money deposited in state account

SEC. _____. Section 25352 of the Health and Safety Code is amended to read:

25352. Money deposited in the state account may also be appropriated by the Legislature to the department on a specific site basis for the following purposes:

(a) For all costs incurred in restoring, rehabilitating, replacing, or acquiring the equivalent of, any natural resource injured, degraded, destroyed, or lost as a result of any release of a hazardous substance, to the extent the costs are not reimbursed pursuant to the federal act and taking into account processes of natural rehabilitation, restoration, and replacement.

(b) For all costs incurred in assessing short-term and long-term injury to, degradation or destruction of, or any loss of any natural resource resulting from a release of a hazardous substance, to the extent that the costs are not reimbursed pursuant to the federal act. No costs may be incurred for any release of a hazardous substance from any facility or project pursuant to subdivision (a) or this subdivision for injury, degradation, destruction, or loss of any natural resource where the injury, degradation, destruction, or loss was specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement prepared under the authority of the National Environmental Policy Act (42 U.S.C. Sec. 4341 et seq.), or was identified as a significant environmental effect to the natural resources which cannot be avoided in an environmental impact report prepared pursuant to the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), and a decision to grant a permit, license, or similar authorization for any facility or project is based upon a consideration of the significant environmental effects to the natural resources, and the facility or project was otherwise operating within the terms of its permit, license, or similar authorization at the time of release.

(c) Notwithstanding Section 25355, the Governor, or the authorized representative of the state, shall act on behalf of the public as trustee of the natural resources to recover costs expended pursuant to subdivision (a) or (b).

Comment. Section 25352 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 25395.11 (amended). Applicable law

SEC. _____. Section 25395.11 of the Health and Safety Code is amended to read:

25395.11. Except as otherwise specified in this article, all the requirements of this chapter, or Chapter 6.85 (commencing with Section 25396) in the case of sites selected pursuant to Section 25396.6, and any other applicable regulation and guidance document or manual adopted or issued by the department, shall apply to sites approved for private site management. The requirements of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code shall

apply to response actions conducted pursuant to this article in the same manner, and to the same extent, that the requirements apply to response actions otherwise conducted pursuant to this chapter or Chapter 6.85 (commencing with Section 25396). If, at any time, the department finds that a private site manager or a private site management team is not in compliance with the requirements of this chapter or Chapter 6.85 (commencing with Section 25396), the department may, pursuant to this article, withdraw its approval for the conduct of a response action on the site.

Comment. Section 25395.11 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33333.3 (amended). Draft environmental impact report

SEC. _____. Section 33333.3 of the Health and Safety Code is amended to read:

33333.3. (a) The redevelopment agency shall send a notice of preparation and a copy of a draft environmental impact report to each affected taxing entity, as defined in Section 33353.2, prepared in accordance with the provisions of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) and regulations adopted pursuant thereto.

(b) If the project area contains land in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the redevelopment agency shall also send a copy of the draft environmental impact report to the Department of Conservation, the county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice. A separate written request for notice shall be required for each proposed redevelopment plan or amendment that adds territory. A written request for notice applicable to one redevelopment plan or amendment shall not be effective for a subsequent plan or amendment.

Comment. Section 33333.3 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33352 (amended). Report on redevelopment plan

SEC. _____. Section 33352 of the Health and Safety Code is amended to read:

33352. Every redevelopment plan submitted by the agency to the legislative body shall be accompanied by a report containing all of the following:

(a) The reasons for the selection of the project area, a description of the specific projects then proposed by the agency, a description of how these projects will improve or alleviate the conditions described in subdivision (b) .

(b) A description of the physical and economic conditions specified in Section 33031 that exist in the area that cause the project area to be blighted. The description shall include a list of the conditions described in Section 33031 that exist within the project area and a map showing where in the project the conditions exist.

(c) An implementation plan that describes specific goals and objectives of the agency, specific projects then proposed by the agency, including a program of actions and expenditures proposed to be made within the first five years of the plan, and a description of how these projects will improve or alleviate the conditions described in Section 33031.

(d) An explanation of why the elimination of blight and the redevelopment of the project area cannot reasonably be expected to be accomplished by private enterprise acting alone or by the legislative body's use of financing alternatives other than tax increment financing.

(e) The proposed method of financing the redevelopment of the project area in sufficient detail so that the legislative body may determine the economic feasibility of the plan.

(f) A method or plan for the relocation of families and persons to be temporarily or permanently displaced from housing facilities in the project area, which method or plan shall include the provision required by Section 33411.1 that no persons or families of low and moderate income shall be

displaced unless and until there is a suitable housing unit available and ready for occupancy by the displaced person or family at rents comparable to those at the time of their displacement.

(g) An analysis of the preliminary plan.

(h) The report and recommendations of the planning commission.

(i) The summary referred to in Section 33387.

(j) The report required by Section 65402 of the Government Code.

(k) The report required by Section 21151 of the ~~Public Resources~~ Environment Code.

(l) The report of the county fiscal officer as required by Section 33328.

(m) If the project area contains low- or moderate-income housing, a neighborhood impact report which describes in detail the impact of the project upon the residents of the project area and the surrounding areas, in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population and quality of education, property assessments and taxes, and other matters affecting the physical and social quality of the neighborhood. The neighborhood impact report shall also include all of the following:

(1) The number of dwelling units housing persons and families of low or moderate income expected to be destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project.

(2) The number of persons and families of low or moderate income expected to be displaced by the project.

(3) The general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413.

(4) The number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, other than replacement housing.

(5) The projected means of financing the proposed dwelling units for housing persons and families of low and moderate income planned for construction or rehabilitation.

(6) A projected timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives.

(n)(1) An analysis by the agency of the report submitted by the county as required by Section 33328, which shall include a summary of the consultation of the agency, or attempts to consult by the agency, with each of the affected taxing entities as required by Section 33328. If any of the affected taxing entities have expressed written objections or concerns with the proposed project area as part of these consultations, the agency shall include a response to these concerns, additional information, if any, and, at the discretion of the agency, proposed or adopted mitigation measures.

(2) As used in this subdivision:

(A) "Mitigation measures" may include the amendment of the redevelopment plan with respect to the size or location of the project area, time duration, total amount of tax increment to be received by the agency, or the proposed use, size, density, or location of development to be assisted by the agency.

(B) "Mitigation measures" shall not include obligations to make payments to any affected taxing entity.

Comment. Section 33352 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33490 (amended). Implementation plan

SEC. ____ . Section 33490 of the Health and Safety Code is amended to read:

33490. (a)(1)(A) On or before December 31, 1994, and each five years thereafter, each agency that has adopted a redevelopment plan prior to December 31, 1993, shall adopt, after a public hearing, an implementation plan that shall contain the specific goals and objectives of the agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the project area and implement the requirements of Sections 33334.2, 33334.4, 33334.6, and 33413. After adoption of the first implementation plan, the parts of

the implementation plan that address Sections 33334.2, 33334.4, 33334.6, and 33413 shall be adopted every five years either in conjunction with the housing element cycle or the implementation plan cycle. The agency may amend the implementation plan after conducting a public hearing on the proposed amendment. If an action attacking the adoption, approval, or validity of a redevelopment plan adopted prior to January 1, 1994, has been brought pursuant to Chapter 5 (commencing with Section 33500), the first implementation plan required pursuant to this section shall be adopted within six months after a final judgment or order has been entered. Subsequent implementation plans required pursuant to this section shall be adopted pursuant to the terms of this section, and as if the first implementation plan had been adopted on or before December 31, 1994.

(B) Adoption of an implementation plan shall not constitute an approval of any specific program, project, or expenditure and shall not change the need to obtain any required approval of a specific program, project, or expenditure from the agency or community. The adoption of an implementation plan shall not constitute a project within the meaning of Section 21000 of the Public Resources Environment Code. However, the inclusion of a specific program, potential project, or expenditure in an implementation plan prepared pursuant to subdivision (c) of Section 33352 in conjunction with a redevelopment plan adoption shall not eliminate analysis of those programs, potential projects, and expenditures in the environmental impact report prepared pursuant to subdivision (k) of Section 33352 to the extent that it would be otherwise required. In addition, the inclusion of programs, potential projects, and expenditures in an implementation plan shall not eliminate review pursuant to the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Public Resources Environment Code), at the time of the approval of the program, project, or expenditure, to the extent that it would be otherwise required.

(2)(A) A portion of the implementation plan shall address the agency housing responsibilities and shall contain a section addressing Sections 33334.2, 33334.4, and 33334.6, the Low and Moderate Income Housing Fund, and, if subdivision (b) of Section 33413 applies, a section addressing agency-developed and project area housing. The section addressing the Low and Moderate Income Housing Fund shall contain:

(i) The amount available in the Low and Moderate Income Housing Fund and the estimated amounts which will be deposited in the Low and Moderate Income Housing Fund during each of the next five years.

(ii) A housing program with estimates of the number of new, rehabilitated, or price-restricted units to be assisted during each of the five years and estimates of the expenditures of moneys from the Low and Moderate Income Housing Fund during each of the five years.

(B) For each project area to which subdivision (b) of Section 33413 applies, the section addressing the agency developed and project area housing shall contain:

(i) Estimates of the number of new, substantially rehabilitated or price-restricted residential units to be developed or purchased within one or more project areas, both over the life of the plan and during the next 10 years.

(ii) Estimates of the number of units of very low, low-, and moderate-income households required to be developed within one or more project areas in order to meet the requirements of paragraph (2) of subdivision (b) of Section 33413, both over the life of the plan and during the next 10 years.

(iii) The number of units of very low, low-, and moderate-income households which have been developed within one or more project areas which meet the requirements of paragraph (2) of subdivision (b) of Section 33413.

(iv) Estimates of the number of agency developed residential units which will be developed during the next five years, if any, which will be governed by paragraph (1) of subdivision (b) of Section 33413.

(v) Estimates of the number of agency developed units for very low, low-, and moderate-income households which will be developed by the agency during the next five years to meet the requirements of paragraph (1) of subdivision (b) of Section 33413.

(3) If the implementation plan contains a project that will result in the destruction or removal of dwelling units that will have to be replaced pursuant to subdivision (a) of Section 33413, the implementation plan shall identify proposed locations suitable for those replacement dwelling units.

(b) For a project area for which a redevelopment plan is adopted on or after January 1, 1994, the implementation plan prepared pursuant to subdivision (c) of Section 33352 shall constitute the initial implementation plan and thereafter the agency after a public hearing shall adopt an implementation plan every five years commencing with the fifth year after the plan has been adopted. Agencies may adopt implementation plans that include more than one project area.

(c) Every agency, at least once within the five-year term of the plan, shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing the redevelopment plan and the corresponding implementation plan for each redevelopment project within the jurisdiction and evaluating the progress of the redevelopment project. The hearing required by this subdivision shall take place no earlier than two years and no later than three years after the adoption of the implementation plan. An agency may hold one hearing for two or more project areas if those project areas are included within the same implementation plan.

(d) Notice of public hearings conducted pursuant to this section shall be published pursuant to Section 6063 of the Government Code and posted in at least four permanent places within the project area for a period of three weeks. Publication and posting shall be completed not less than 10 days prior to the date set for hearing.

Comment. Section 33490 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33492.18 (amended). CEQA exemption

SEC. ____ . Section 33492.18 of the Health and Safety Code is amended to read:

33492.18. (a) Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this article if the redevelopment agency determines at a public hearing, noticed in accordance with this section, that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

(b) If the redevelopment agency finds, pursuant to subdivision (a), that the application of the California Environmental Quality Act to the redevelopment plan is required to be delayed, the redevelopment agency or the community shall certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. If, as a result of the preparation of the environmental document prepared pursuant to this subdivision, it is necessary to amend the redevelopment plan to mitigate any impacts, the agency shall amend the redevelopment plan according to the procedures of this part. If the environmental document is determined to be inadequate by a court of competent jurisdiction, the redevelopment agency shall not undertake additional projects that implement the redevelopment plan until an adequate environmental document has been certified. However, this determination shall not affect the validity of the redevelopment plan.

(c) Until the redevelopment agency or the community certifies an environmental impact report for the redevelopment plan, all projects, as defined in the California Environmental Quality Act, that implement the redevelopment plan shall be subject to the California Environmental Quality Act, including, but not limited to, specific plans and rezonings. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts, if any, that otherwise would not be known until an environmental document for the redevelopment plan is certified or approved and shall also include a reporting or monitoring program required pursuant to Section 21081 of the ~~Public Resources~~ Environment Code.

(d) The notice for the public hearing required by subdivision (a) shall comply with, and may be combined with, the notices in Section 33349 or 33361. The notice shall state that the agency intends to consider and act upon a determination that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay

application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

Comment. Section 33492.18 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33492.41 (amended). Redevelopment plan for Norton Air Force Base

SEC. _____. Section 33492.41 of the Health and Safety Code is amended to read:

33492.41. (a) Notwithstanding Section 21090 of the ~~Public Resources~~ Environment Code, the Inland Valley Development Agency may determine at a noticed public hearing that the amendment of a redevelopment plan for the Norton Air Force Base Redevelopment Project Area pursuant to this chapter is not subject to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), except that projects implementing the redevelopment plan, including specific plans, rezonings, and ministerial projects that may have a significant effect on the environment, shall be subject to the California Environmental Quality Act. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts that otherwise will not be known until an environmental impact report for the redevelopment plan is certified.

(b) The notice of the public hearing required pursuant to subdivision (a) shall include the date, time, and place of the hearing, a brief description of the proposed project and its location, the date when notice will be provided pursuant to Section 21092 of the ~~Public Resources~~ Environment Code, and the address where copies of the notice of exemption are available for review.

(c) The notice required by this section shall be given to all organizations and individuals who have previously requested notice pursuant to the California Environmental Quality Act, and shall be given by publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project.

(d) If the Inland Valley Development Agency determines, pursuant to subdivision (a), that the amendment of a redevelopment plan is not subject to the California Environmental Quality Act, the redevelopment agency shall prepare and certify an environmental impact report for the redevelopment plan amendment within 12 months after the effective date of the ordinance amending the redevelopment plan.

(e) An environmental impact report prepared and certified for a specific plan or other comprehensive land use plan for the applicable portion of the Inland Valley Redevelopment Project Area shall satisfy the requirement of subdivision (d) if the plan covers the same area and project as the amendment to the redevelopment plan and is certified within 12 months after the effective date of the ordinance amending the redevelopment plan.

(f) The redevelopment agency shall revise the redevelopment plan if necessary to mitigate any impacts and comply with the California Environmental Quality Act and adopt mitigation measures as conditions of project approval.

(g) This section shall only apply to a redevelopment plan amendment approved on or before September 1, 1995.

Comment. Section 33492.41 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33492.65 (amended). Application of CEQA

SEC. _____. Section 33492.65 of the Health and Safety Code is amended to read:

33492.65. (a) Notwithstanding Section 21090 of the ~~Public Resources~~ Environment Code, the redevelopment agency for the County of Sacramento or the legislative body of the County of Sacramento may determine at a noticed public hearing that the adoption of a redevelopment plan for the Mather Air Force Base Redevelopment Project Area pursuant to this chapter is not subject to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public~~

Resources Environment Code), except that projects implementing the redevelopment plan, including specific plans, rezonings, and ministerial projects, that may have a significant effect on the environment shall be subject to the California Environmental Quality Act. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts that otherwise will not be known until an environmental impact report for the redevelopment plan is certified.

(b) The notice of the public hearing required pursuant to subdivision (a) shall include the date, time, and place of the hearing, a brief description of the proposed project and its location, the date when notice will be provided pursuant to Section 21092 of the ~~Public Resources~~ Environment Code, and the address where copies of the notice of exemption are available for review.

(c) The notice required by this section shall be given to all organizations and individuals who have previously requested notice pursuant to the California Environmental Quality Act, and shall be given by publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project.

(d) If the redevelopment agency for the County of Sacramento or the legislative body of the County of Sacramento determines, pursuant to subdivision (a), that the adoption of a redevelopment plan is not subject to the California Environmental Quality Act, the redevelopment agency shall prepare and certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. An environmental impact report prepared and certified for a specific plan or other comprehensive land use plan for the Mather Air Force Base Redevelopment Project Area shall satisfy the requirement of this subdivision.

Comment. Section 33492.65 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33492.94 (amended). Mare Island Redevelopment Project Area

SEC. ____ . Section 33492.94 of the Health and Safety Code is amended to read:

33492.94. (a) Notwithstanding Section 21090 of the ~~Public Resources~~ Environment Code, the redevelopment agency for the City of Vallejo or the legislative body of the City of Vallejo may determine at a noticed public hearing that the adoption of a redevelopment plan for the Mare Island Redevelopment Project Area pursuant to this article is not subject to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), except that projects implementing the redevelopment plan, including specific plans, rezonings, and ministerial projects that may have a significant effect on the environment, shall be subject to the California Environmental Quality Act. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts that otherwise will not be known until an environmental impact report for the redevelopment plan is certified.

(b) The notice of the public hearing required pursuant to subdivision (a) shall include the date, time, and place of the hearing, a brief description of the proposed project and its location, the date when notice will be provided pursuant to Section 21092 of the ~~Public Resources~~ Environment Code, and the address where copies of the notice of exemption are available for review.

(c) The notice required by this section shall be given to all organizations that, and individuals who, have previously requested notice pursuant to the California Environmental Quality Act, and shall be given by publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project.

(d) If the redevelopment agency for the City of Vallejo or the legislative body of the City of Vallejo determines, pursuant to subdivision (a), that the adoption of a redevelopment plan is not subject to the California Environmental Quality Act, the redevelopment agency shall prepare and certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. An environmental impact report prepared and certified jointly with the preparation of the environmental impact statement by the federal lead agency pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321, et seq.) shall satisfy the requirement of this subdivision.

Comment. Section 33492.94 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33492.110 (amended). CEQA exemption

SEC. _____. Section 33492.110 of the Health and Safety Code is amended to read:

33492.110. (a) Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this article if the redevelopment agency determines at a public hearing, noticed in accord with this section, that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

(b) If the redevelopment agency finds, pursuant to subdivision (a), that the application of the California Environmental Quality Act to the redevelopment plan is required to be delayed, the redevelopment agency or the community shall certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. If, as a result of the preparation of the environmental document prepared pursuant to this subdivision, it is necessary to amend the redevelopment plan to mitigate any impacts, the agency shall amend the redevelopment plan according to the procedures of this part. If the environmental document is determined to be inadequate, the redevelopment agency shall not continue with projects that implement the redevelopment plan until an adequate environmental document has been certified; however, this determination shall not affect the validity of the redevelopment plan.

(c) Until the redevelopment agency or the community certifies an environmental impact report for the redevelopment plan, all projects, as defined in the California Environmental Quality Act, that implement the redevelopment plan shall be subject to the California Environmental Quality Act, including, but not limited to, specific plans and rezonings. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts, if any, that otherwise would not be known until an environmental document for the redevelopment plan is certified or approved and shall also include a reporting or monitoring program required pursuant to Section 21081 of the ~~Public Resources~~ Environment Code.

(d) The notice for the public hearing required by subdivision (a) shall comply with, and may be combined with, the notices in Section 33349 or 33361. The notice shall state that the agency intends to consider and act upon a determination that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

Comment. Section 33492.110 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 33852 (amended). CEQA exemption

SEC. _____. Section 33852 of the Health and Safety Code is amended to read:

33852. All proceedings and decisions undertaken or made pursuant to this chapter shall be exempt from the requirements of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 33852 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 34005 (amended). CEQA exemption

SEC. _____. Section 34005 of the Health and Safety Code is amended to read:

34005. (a) Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this part if the redevelopment agency determines at a public hearing, noticed in accord with this section, that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in the Community Redevelopment Disaster Project Law requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

(b) If the redevelopment agency finds, pursuant to subdivision (a), that the application of the California Environmental Quality Act to the redevelopment plan is required to be delayed, the redevelopment agency shall prepare and certify an environmental impact report or approve a negative declaration for the redevelopment plan within 12 months after the effective date of the ordinance adopting the redevelopment plan. If, as a result of the preparation of the environmental document prepared pursuant to this subdivision, it is necessary to amend the redevelopment plan to mitigate any impacts, the agency shall amend the redevelopment plan according to the procedures of this part. If the environmental document is determined to be inadequate, the redevelopment agency shall not continue with projects which implement the redevelopment plan until an adequate environmental document has been certified; however, this determination shall not affect the validity of the redevelopment plan.

(c) Until the redevelopment agency certifies an environmental impact report or negative declaration for the redevelopment plan, all projects, as defined in the California Environmental Quality Act, which implement the redevelopment plan shall be subject to the California Environmental Quality Act, including, but not limited to, specific plans and rezonings. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts, if any, that otherwise will not be known until an environmental document for the redevelopment plan is certified or approved and shall also include a reporting or monitoring program required pursuant to Section 21081 of the ~~Public Resources~~ Environment Code.

(d) The notice for the public hearing required by subdivision (a) shall comply with and may be combined with the notices in Section 33349 or 33361. The notice shall state that the agency intends to consider and act upon a determination that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in the Community Redevelopment Disaster Project Law requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

Comment. Section 34005 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 40717.6 (amended). Congestion management program

SEC. _____. Section 40717.6 of the Health and Safety Code is amended to read:

40717.6. (a) No district or other local or regional agency shall impose any requirement on any private entity, including any requirement in any congestion management program adopted pursuant to Section 65089 of the Government Code, except as specifically provided in Section 65089.1 of the Government Code, to reduce shopping trips or to require the imposition of parking charges or the elimination of existing parking spaces at retail facilities.

(b) Notwithstanding subdivision (a), nothing in this section shall be construed to prevent a city or county from doing any of the following:

(1) Requiring retailers to make available to customers information concerning alternative transportation systems serving the retail site.

(2) Imposing requirements on new development as a condition of development for the purpose of mitigation pursuant to the California Environmental Quality Act, ~~Division 13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(3) Enacting requirements on retailers as a result of a voter imposed growth management initiative.

(c) Nothing in this section shall be construed as a limitation on the land use authority of cities and counties.

Comment. Section 40717.6 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 42301.3 (amended). Air pollution control equipment installation

SEC. ____ Section 42301.3 of the Health and Safety Code is amended to read:

42301.3. (a) It is the intent of the Legislature that districts expedite permits for the installation of air pollution control equipment.

(b)(1) This section applies only to air pollution control projects at existing sources, where the project is necessary to comply with emission standards or limitations imposed by law, including, but not limited to, district regulations.

(2) This section does not apply to air pollution control requirements applicable to new or modified sources that are not air pollution control projects necessary to comply with emission standards or limitations imposed by law. However, this section applies to the permitting of air pollution control projects necessary to comply with emission standards or limitations imposed by law that are intended to reduce emissions of one or more pollutants that may or may not result in an increase in emissions of a different pollutant or pollutants.

(c) Each district shall prepare, with input from the regulated community, a list of permitting criteria that identifies streamlined permit application requirements for each type of mandated air pollution control project. The list shall be consistent with the requirements of this section but may also include general facility information, a general description of the equipment affected by the air pollution control project, and specific information regarding the pollution control equipment or operational changes that will reduce emissions.

(d)(1) Within 30 days of the date that the applicant submits the information specified in paragraph (2), the district shall commence evaluation and deem the application complete, subject to the final as-built design submittal being consistent with the preliminary engineering and design information specified in subparagraph (B) of paragraph (2), for the purpose of issuing a permit to construct. Notwithstanding the limitations of Sections 65944, 65950, and 65952 of the Government Code, if final design information results in a material change in the permit evaluation that was based on the preliminary submittal, the application shall undergo a new evaluation based on the final design and the district shall promptly notify the applicant of any further information that is necessary to complete the evaluation.

(2) Prior to the district deeming the application complete pursuant to paragraph (1), the applicant shall provide the following information:

(A) The information specified in the list prepared pursuant to subdivision (c).

(B) Either of the following:

(i) Preliminary engineering and design information or other technical equipment specification data reasonably available during the initial design phase.

(ii) The manufacturer's performance warranty and the associated preliminary engineering data on which the bidding documents for the contract with the manufacturer were based.

(C) Any reasonably required information regarding an air contaminant for which emissions will increase as a result of installation of the air pollution control project.

(D) Any information necessary to make the application complete with respect to any federal requirement adopted or promulgated pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) that applies to the air pollution control project.

(e) Prior to the final approval of the applicant's permit to operate, the applicant shall provide the district with final engineering and design information and other data reasonably necessary to ensure compliance with applicable emission limitations. The information may be based on source test results and other operating data available after startup and shakedown of the control equipment. Once the applicant has provided the information specified in this subdivision, and the final design is consistent with the preliminary design data specified in subparagraph (B) of paragraph (2) of subdivision (d) for

purposes of permit evaluation, the district shall deem the application complete for the purpose of issuing a permit to operate.

(f)(1) For projects subject to this section for which the use of continuous emission monitoring systems is required, the air quality permit conditions that relate to emissions monitored by the continuous emission monitoring systems shall be sufficient for measurements and reporting as required to meet the specified emission limit as required by the rule or regulation.

(2) Nothing in this subdivision is intended to limit the applicability of standards or limitations or monitoring requirements set forth in any rule or regulation.

(g)(1) An applicant may petition the district hearing board for a variance from a requirement to install air pollution control equipment or to meet a more stringent emission standard or limitation if there is a delay in the approval of the permit to construct or permit to operate for projects under this section. The finding required by paragraph (2) of subdivision (a) of Section 42352 shall be met if the hearing board finds that the delay is not due to the lack of due diligence on the part of the applicant in the permit process, and the delay results in the inability of the applicant to legally comply with the requirement or schedule that requires the installation and operation of air pollution control equipment or achievement of a more stringent emission standard or limitation. The findings required by paragraphs (3), (4), and (5) of subdivision (a) of Section 42352 shall not apply to a variance granted pursuant to this paragraph. Paragraph (6) of subdivision (a) of Section 42352 shall apply to a variance granted pursuant to this paragraph. However, if the district requests that the applicant monitor or otherwise quantify emission levels from the source during the term of the variance pursuant to paragraph (6) of subdivision (a) of Section 42352, that monitoring or quantification required in connection with the variance shall be limited to any monitoring or quantification already being performed for the source for which the pollution control project is required. No variance shall be granted unless the hearing board makes the findings as specified in this subdivision. The hearing board shall not impose any excess emission fees in connection with the grant of the variance. In determining the term of the variance, the hearing board shall consider the period of time that the delay was not due to the lack of due diligence on the part of the applicant.

(2) For purposes of this subdivision, “due diligence” means that all of the following conditions exist:

(A) The air pollution control project proposed by the applicant was reasonably expected to achieve compliance with the pertinent emission standard or limitation.

(B) The applicant submitted the permit application in sufficient time for the district to act on the application and for the applicant to complete the project in accordance with the deadline.

(C) The applicant responded in a reasonable time to requests for additional information needed by the district to process the application or prepare any necessary environmental analyses.

(D) The district has not denied or proposed to deny the application on the basis of the project’s inability to meet district permit requirements consistent with this section.

(E) During the term of the variance, the applicant will take practicable steps to ensure completion of the project as expeditiously as possible after issuance of the permit.

(3) Paragraph (1) shall not limit the authority of a district to require emissions monitoring or quantification under any other applicable provision of law.

(4) Nothing in this subdivision shall be interpreted as authorizing a hearing board to grant a variance from any requirement for a permit to build, alter, erect, or replace any air pollution control equipment included in a project subject to this section.

(h) If a supplemental or other environmental impact report or other environmental assessment is required for the project pursuant to the California Environmental Quality Act (Division 43 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) and the district is the lead agency, the district shall prepare and act upon the report or assessment and the permit to construct concurrently in order to streamline the approval process. However, the district shall be required to take that concurrent action only if the applicant has submitted the information required by this section to allow the district to streamline the approval process.

(i) For purposes of this section, “material change” means a change that would result in a material impact on the level of emission calculated.

Comment. Section 42301.3 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 44561 (amended). Applicable law

SEC. _____. Section 44561 of the Health and Safety Code is amended to read:

44561. (a) This division provides a complete, additional, and alternative method for the doing of the things authorized by this division, and is supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this division need not comply with any other law applicable to the issuance of bonds including, but not limited to, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code. In the construction and acquisition of a project pursuant to this division, the authority need not comply with any other law applicable to the construction or acquisition of public works, except as specifically provided in this division. Pollution control facilities and projects may be acquired, constructed, completed, repaired, altered, improved, or extended, and bonds may be issued for any of those purposes under this division, notwithstanding that any other law may provide for the acquisition, construction, completion, repair, alteration, improvement, or extension of like pollution control facilities or for the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law.

(b) Except as provided in subdivision (a), the financing of a project pursuant to this part shall not exempt a project from any requirement of law which otherwise would be applicable to the project.

Comment. Section 44561 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 56040 (amended). Large scale urban development

SEC. _____. Section 56040 of the Health and Safety Code is amended to read:

56040. The legislative body is hereby designated the lead agency and shall certify an environmental impact report in accordance with the provisions of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) prior to approving a large scale urban development. When an environmental impact report has been certified for a large scale urban development pursuant to this section, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency unless one or more of the following events occur:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions of the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available. No person shall have standing to bring an action or proceeding to attack, review, set aside, void, or annul a finding of a legislative body made at a public hearing pursuant to this section unless he or she has participated in that public hearing. However, this provision shall not be applicable if the legislative body failed to give notice of the public hearing as required by law. For purposes of this provision, a person has participated in the public hearing if he or she has submitted either oral or written testimony regarding the proposed determination, finding, or decision prior to the close of the hearing.

Comment. Section 56040 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 57053 (amended). Consolidated permit agency

SEC. _____. Section 57053 of the Health and Safety Code is amended to read:

57053. (a) Any responsible party may request the office to designate a consolidated permit agency for a repair or maintenance project to administer the processing and issuance of a consolidated permit for the repair or maintenance project subject to this division. The office is not authorized to act pursuant to this chapter in the absence of a request by a responsible party. The office shall designate a consolidated permit agency within 30 days from the date that the request was received.

(b) A responsible party that requests the designation of a consolidated permit agency shall provide the office with a description of the repair or maintenance project, a preliminary list of the repair or maintenance project permits that the repair or maintenance project may require, the identity of any public agency that has been designated the lead agency for the repair or maintenance project pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code or Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, and the identity of the participating permit agencies. The office may request any information from the responsible party that is necessary to make the designation under subdivision (a), and may convene a scoping meeting of the likely consolidated permit agency and participating permit agencies to make that designation.

(c) In those cases where a public agency is the lead agency for purposes of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code or Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, that agency shall be the consolidated permit agency. In other cases, the following factors shall be considered in determining which public agency has the greatest overall jurisdiction over the repair or maintenance project:

- (1) The type of facility or structure that is the subject of the proposed repair or maintenance project.
- (2) The nature of the threat that a failure to repair and maintain the structure or facility poses to public health or safety or to the environment, including the environmental medium that may be affected by a failure to repair and maintain the structure or facility.
- (3) The environmental and human health and safety concerns that should be considered in properly carrying out the repair or maintenance project.
- (4) The statutory and regulatory standards applicable to the repair or maintenance project.

(d) The consolidated permit agency shall serve as the main point of contact for the responsible party with regard to the processing of the consolidated permit for the repair or maintenance project and shall coordinate the procedural aspects of the processing consistent with existing laws governing the consolidated permit agency and participating permit agencies, and with the procedures agreed to by those agencies in accordance with Section 57053.1. In carrying out those responsibilities, the consolidated permit agency shall ensure that consolidated permit applicant has all of the information needed to apply for all of the component repair or maintenance project permits that are incorporated in the consolidated permit, coordinate the review of those repair or maintenance project permits by the respective participating permit agencies, ensure that timely permit decisions are made by the participating permit agencies, and assist in resolving any conflict or inconsistency among the repair or maintenance project permit requirements and conditions that are to be imposed by the participating permit agencies with regard to the repair or maintenance project.

(e) This division shall not be construed to limit or abridge the authority or responsibilities of any participating permit agency pursuant to the law that authorizes or requires the agency to issue a permit for a repair or maintenance project or to grant any agency any new powers independent of those granted by other laws. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component repair or maintenance project permit that is within the scope of its authority or responsibility, including, but not limited to, the determination of permit application completeness, permit approval or approval with conditions, or permit denial. The consolidated permit agency may not substitute its judgment for that of a participating permit agency on any such nonprocedural matters.

Comment. Section 57053 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 59004 (amended). Functions and responsibilities of office

SEC. _____. Section 59004 of the Health and Safety Code is amended to read:

59004. The office succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Health Hazard Assessment Division of the State Department of Health Services relating to assessment of human health risks of chemicals and to toxicologic and scientific consultation to programs in the State Department of Health Services and in other state agencies. The functions and responsibilities of the office shall include, but not be limited to, those performed pursuant to the following provisions of law:

(a) Article 6 (commencing with Section 32060) of Chapter 1 of Part 19 of Division 1 of Title 1 of the Education Code.

(b) Sections 217.6 and 7715 of the Fish and Game Code.

(c) Article 10.5 (commencing with Section 12980), Article 14 (commencing with Section 13121), and Article 15 (commencing with Section 13141) of Chapter 2 of Division 7 of, Sections 13060 and 13061 of, and Article 1.5 (commencing with Section 14021) of Chapter 3 of Division 7 of, the Food and Agricultural Code.

(d) Section 425 of, Chapter 9 (commencing with Section 2950) of Division 3 of, Sections 25416, 25886.5 and 39606 of, Article 3 (commencing with Section 39660) of Chapter 3.5 of Part 2 of Division 26 of, Sections 41982 and 42315 of, and Chapter 4 (commencing with Section 44360) of Part 6 of Division 26 of, this code.

(e) Section 21151.1 of the ~~Public Resources~~ Environment Code.

Comment. Section 59004 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Health & Safety Code § 116760.50 (amended). Funding criteria

SEC. _____. Section 116760.50 of the Health and Safety Code is amended to read:

116760.50. The department shall establish criteria that shall be met for projects to be eligible for consideration for funding under this chapter. The criteria shall include all of the following:

(a) All preliminary design work for a defined project that will enable the applicant to supply water that meets safe drinking water standards, including a cost estimate for the project, shall be completed.

(b) A legal entity shall exist that has the authority to enter into contracts and incur debt on behalf of the community to be served and owns the public water system or has the right to operate the public water system under a lease with a term of at least 20 years, unless otherwise authorized by the department. If the proposed project is funded by a loan under this chapter, the department may require the applicant to secure a lease for the full term of the loan if the loan exceeds 20 years.

(c) The applicant shall hold all necessary water rights.

(d) The applicant shall have completed any review required pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) and the guidelines adopted pursuant thereto, and have included plans for compliance with that act in its preliminary plans for the project.

(e) The applicant has assembled sufficient financial data to establish its ability to complete the proposed project and to establish the amount of debt financing it can undertake.

Comment. Section 116760.50 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

PENAL CODE

Penal Code § 1174.3 (amended). Facility design

SEC. _____. Section 1174.3 of the Penal Code is amended to read:

1174.3. (a) The department shall ensure that the facility designs provide adequate space to carry out this chapter, including the capability for nonsecure housing, programming, child care, food services, treatment services, educational or vocational services, intensive day treatment, and transitional living skills services.

(b) The agency selected to operate the program shall administer and operate the center and program consistent with the criteria set forth in this chapter and any criteria established by the department. These responsibilities shall include maintenance and compliance with all laws, regulations, and health standards. The department shall contract to reimburse the agency selected to operate this program for women who would otherwise be sentenced to state prison based upon actual costs not provided by other funding sources.

(c) Notwithstanding any other law, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code shall not apply to any facility used for multiperson residential use in the last five years, including, but not limited to, motels, hotels, long-term care facilities, apartment buildings, and rooming houses, or to any project for which facilities intended to house no more than 75 women and children are constructed or leased pursuant to this chapter.

(d) Proposals submitted pursuant to this chapter are exempt from approval and submittal of plans and specifications to the Joint Legislative Committee on Prison Construction Operations and other legislative fiscal committees.

Comment. Section 1174.3 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Penal Code § 2045.11 (amended). Facility level

SEC. _____. Section 2045.11 of the Penal Code is amended to read:

2045.11. The facility authorized by Section 2045.10 shall be a combination 1,000-bed Level III and 1,000-bed Level IV prison together with a 200-bed Level I support services facility on the existing grounds of the Correctional Training Facility in Monterey County. The provisions of Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code that require consideration of alternatives for a proposed project shall not apply to the project authorized by Section 2045.10.

Comment. Section 2045.11 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Penal Code § 4497.02 (amended). Application of CEQA

SEC. _____. Section 4497.02 of the Penal Code is amended to read:

4497.02. (a) For the purpose of this chapter:

(1) "Board" means the Board of Corrections.

(2) "Fund" means the 1988 County Correctional Facilities Capital Expenditure and Youth Facility Fund.

(b) The Board of Corrections shall not itself be deemed a responsible agency, as defined by Section 21069 of the ~~Public Resources~~ Environment Code, or otherwise be subject to the California Environmental Quality Act for any activities under this title, the County Jail Capital Expenditure Bond Acts of 1981 or 1984, or the County Facility Capital Expenditure Bond Act of 1986. This subdivision does not exempt any local agency from the requirements of the California Environmental Quality Act.

Comment. Section 4497.02 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Penal Code § 6241 (amended). Substance Abuse Community Correctional Detention Centers Fund

SEC. _____. Section 6241 of the Penal Code is amended to read:

6241. (a) The Substance Abuse Community Correctional Detention Centers Fund is hereby created within the State Treasury. The Board of Corrections is authorized to provide funds, as appropriated by the Legislature, for the purpose of establishing substance abuse community correctional detention centers. These facilities shall be operated locally in order to manage parole violators, those select individuals sentenced to state prison for short periods of time, and other sentenced local offenders with a known history of substance abuse, and as further defined by this chapter.

(b) The facilities constructed with funds disbursed pursuant to this chapter in a county shall contain no less than 50 percent of total beds for use by the Department of Corrections.

(1) Upon agreement, the county and the department may negotiate any other mix of state and local bed space, providing the state's proportionate share shall not be less than 50 percent in the portion of the facilities financed through state funding.

(2) Nothing in this chapter shall prohibit the county from using county funds or nonrestricted jail bond funds to build and operate additional facilities in conjunction with the centers provided for in this chapter.

(c) Thirty million dollars (\$30,000,000) in funds shall be provided from the 1990 Prison Construction Fund and the 1990-B Prison Construction Fund, with fifteen million dollars (\$15,000,000) each from the June 1990 bond issue and the November 1990 bond issue, for construction purposes set forth in this chapter, provided that funding is appropriated in the state budget from the June and November 1990, prison bond issues for purposes of this chapter.

(d) Funds shall be awarded to counties based upon the following policies and criteria:

(1) Priority shall be given to urban counties with populations of 450,000 or more, as determined by Department of Finance figures. The board may allocate up to 10 percent of the funding to smaller counties or combinations of counties as pilot projects, if it concludes that proposals meet the requirements of this chapter, commensurate with the facilities and programming that a smaller county can provide.

(2) Upon application and submission of proposals by eligible counties, representatives of the board shall evaluate proposals and select recipients.

To help ensure that state-of-the-art drug rehabilitation and related programs are designed, implemented, and updated under this chapter, the board shall consult with not less than three authorities recognized nationwide with experience or expertise in the design or operation of successful programs in order to assist the board in all of the following:

(A) Drawing up criteria on which requests for proposals will be sought.

(B) Selecting proposals to be funded.

(C) Assisting the board in evaluation and operational problems of the programs, if those services are approved by the board.

Funding also shall be sought by the board from the federal government and private foundation sources in order to defray the costs of the board's responsibilities under this chapter.

(3) Preference shall be given to counties that can demonstrate a financial ability and commitment to operate the programs it is proposing for a period of at least three years and to make improvements as proposed by the department and the board.

(4) Applicants receiving awards under this chapter shall be selected from among those deemed appropriate for funding according to the criteria, policies, and procedures established by the board. Criteria shall include success records of the types of programs proposed based on nationwide standards for successful programs, if available, expertise and hands-on experience of persons who will be in charge of proposed programs, cost effectiveness, including cost per bed, speed of construction, a demonstrated ability to construct the maximum number of beds which shall result in an overall net increase in the number of beds in the county for state and local offenders, comprehensiveness of services, location, participation by private or community-based organizations, and demonstrated ability to seek and obtain supplemental funding as required in support of the overall administration of this facility from sources such as the Department of Alcohol and Drug Programs, the Office of Criminal Justice Planning, the National Institute of Corrections, the Department of Justice, and other state and federal sources.

(5) Funds disbursed under subdivision (c) shall be used for construction of substance abuse community correctional centers, with a level of security in each facility commensurate with public safety for the types of offenders being housed in or utilizing the facilities.

(6) Funds disbursed under this chapter shall not be used for the purchase of the site. Sites shall be provided by the county. However, a participating county may negotiate with the state for use of state land at nearby corrections facilities or other state facilities, provided that the locations fit in with the aims of the programs established by this chapter.

The county shall be responsible for ensuring the siting, acquisition, design, and construction of the center consistent with the California Environmental Quality Act pursuant to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(7) Staff of the department and the board, as well as persons selected by the board, shall be available to counties for consultation and technical services in preparation and implementation of proposals accepted by the board.

(8) The board also shall seek advice from the Department of Alcohol and Drug Programs in exercising its responsibilities under this chapter.

(9) Funds shall be made available to the county and county agency which is selected to administer the program by the board of supervisors of that county.

(10) Area of greatest need can be a factor considered in awarding contracts to counties.

(11) Particular consideration shall be given to counties that can demonstrate an ability to provide continuing counseling and programming for offenders in programs established under this chapter, once the offenders have completed the programs and have returned to the community.

(12) A county may propose a variety of types and sizes of facilities to meet the needs of its plan and to provide the services for varying types of offenders to be served under this chapter. Funds granted to a county may be utilized for construction of more than one facility.

Any county wishing to use existing county-owned sites or facilities may negotiate those arrangements with the Department of Corrections and the Board of Corrections to meet the needs of its plan.

Comment. Section 6241 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Penal Code § 7008 (amended). CEQA exemption

SEC. ____ . Section 7008 of the Penal Code is amended to read:

7008. (a) Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code shall not apply to the addition of 150 Level I and Level II beds authorized by Section 5 of this act at San Gabriel Canyon, provided that the department has made the following finding with respect to that facility:

(1) The increase in bed capacity, if any, shall not exceed, 5 percent of the total capacity of the facility prior to the increase.

(2) Any modifications made to existing structures are internal only. No external additions to existing structures or construction of new structures shall be done. Modular structures used exclusively for prisoner program activity shall be exempt from this requirement.

(3) Any modifications to a facility shall not result in a significant depletion in water, sewage, or other environmental resources. The department shall present substantial evidence that this requirement has been met in the findings described in subdivision (b).

(b) The department shall make findings that the requirements of subdivision (a) have been met, and shall make the findings available to the public.

Comment. Section 7008 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Penal Code § 8631 (amended). Applicable law

SEC. _____. Section 8631 of the Penal Code is amended to read:

8631. The provisions of this division shall not be subject to the provisions of the California Environmental Quality Act (commencing with Section 21000 of the ~~Public Resources Environment~~ Code), the Subdivision Map Act (commencing with Section 66410 of the Government Code), or the Property Acquisition Law (commencing with Section 15850 of the Government Code).

Comment. Section 8631 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

PUBLIC RESOURCES CODE

Pub. Res. Code § 614 (amended). Implementation of soil conservation plan

SEC. _____. Section 614 of the Public Resources Code is amended to read:

614. (a) In order to implement the soil conservation plan which is adopted by the soil conservation committee, the department shall conduct a study and propose an implementation strategy to meet the intent of the plan. The study shall include, but not be limited to, all of the following:

(1) An assessment of the structural and policy changes needed in the department to carry out the soil conservation plan.

(2) A review of the provisions of Division 9 (commencing with Section 9000) for the purposes of providing a framework for soil conservation administration at the state and local levels.

(3) Recommendations on how the department can best deliver soil conservation services.

The department shall report the results of this study to the Legislature on or before December 1, 1988.

(b) The department shall conduct a study of resource conservation districts in California. The study shall include, but not be limited to, all of the following:

(1) A review of the provisions of Division 9 (commencing with Section 9000) to determine the changes in policy and structure necessary to enable resource conservation districts to better provide soil conservation assistance.

(2) Recommendations on the consolidation and reorganization of resource conservation districts.

The department shall report the result of this study to the Legislature on or before December 1, 1989.

(c) The department shall provide soil conservation advisory services to local governments, land owners, farmers and ranchers, resource conservation districts, and the general public. The services shall include, but not be limited to, all of the following:

(1) State level liaison with the resource conservation districts.

(2) Review of environmental impact reports as required under the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code).

(3) Provision of information on the soil conservation components of the 1985 Food Security Act.

(4) Assistance to local governments on the development of soil conservation guidelines for general plans.

(5) Responding to inquiries from the general public.

From funds appropriated for purposes of this section, an amount, not to exceed fifty thousand dollars (\$50,000), shall be utilized for the purposes of this subdivision.

Comment. Section 614 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 2714 (amended). Excavation and grading

SEC. _____. Section 2714 of the Public Resources Code is amended to read:

2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(b) Onsite excavation and onsite earthmoving activities that are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 3 (commencing with Section 21000) of the Environment Code.

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Division 13 3 (commencing with Section 21000) of the Environment Code.

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board, as defined by Section 2001, determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i)(1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-

way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.

(j)(1) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.

(2) This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.

(k) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(1) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning applicable to the site.

(3) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(4) No excavated materials are sold for commercial purposes.

Comment. Section 2714 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 2762 (amended). Mineral resource management policies

SEC. ____ . Section 2762 of the Public Resources Code is amended to read:

2762. (a) Within 12 months of receiving the mineral information described in Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, every lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan which will:

(1) Recognize mineral information classified by the State Geologist and transmitted by the board.

(2) Assist in the management of land use which affect areas of statewide and regional significance.

(3) Emphasize the conservation and development of identified mineral deposits.

(b) Every lead agency shall submit proposed mineral resource management policies to the board for review and comment prior to adoption.

(c) Any subsequent amendment of the mineral resource management policy previously reviewed by the board shall also require review and comment by the board.

(d) If any area is classified by the State Geologist as an area described in paragraph (2) of subdivision (b) of Section 2761, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare, in conjunction with preparing any environmental document required by Division 13 3 (commencing with Section 21000) of the Environment Code, or in any event if no such document is required, a statement specifying its reasons for permitting the proposed use, and shall forward a copy to the State Geologist and the board for review.

If the proposed use is subject to the requirements of Division 13 3 (commencing with Section 21000) of the Environment Code, the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:

(1) Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.

(2) Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is located as those owners are shown on the latest equalized assessment role.

The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, when the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.

(e) Prior to permitting a use which would threaten the potential to extract minerals in an area classified by the State Geologist as an area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located therein. The results of such evaluation shall be transmitted to the State Geologist and the board.

Comment. Section 2762 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 2770 (amended). Permit for surface mining operations

SEC. ____ . Section 2770 of the Public Resources Code is amended to read:

2770. (a) Except as provided in this section, no person shall conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation pursuant to this article.

(b) Any person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency. For purposes of this subdivision, reclamation plans may consist of all or the appropriate sections of any plans or written agreements previously approved by the lead agency or another agency, together with any additional documents needed to substantially meet the requirements of Sections 2772 and 2773 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, provided that all documents which together were proposed to serve as the reclamation plan are submitted for approval to the lead agency in accordance with this chapter.

(c) If a person with an existing surface mining operation has received lead agency approval of its financial assurances for reclamation prior to January 1, 1991, the lead agency shall administratively review those existing financial assurances in accordance with subdivision (d) prior to January 1, 1992. The review of existing financial assurances shall not be considered a project for purposes of Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code. Any person with an existing surface mining operation which does not have financial assurances that received lead agency approval prior to January 1, 1991, shall submit financial assurances for reclamation for review in accordance with subdivision (d).

(d) The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The operator has 60 days to

revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval. Except as specified in subdivision (e) or (i), unless the operator has filed on or before July 1, 1990, an appeal pursuant to subdivision (e) with regard to nonapproval of the reclamation plan, or has filed on or before January 1, 1994, an appeal pursuant to subdivision (e) with regard to nonapproval of financial assurances, and that appeal is pending before the board, the continuation of the surface mining operation is prohibited until a reclamation plan and financial assurances for reclamation are approved by the lead agency.

(e) Any person who, based on the evidence of the record, can substantiate that a lead agency has either (1) failed to act according to due process or has relied on considerations not related to the specific applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, in reaching a decision to deny approval of a reclamation plan or financial assurances for reclamation, (2) failed to act within a reasonable time of receipt of a completed application, or (3) failed to review and approve reclamation plans or financial assurances as required by subdivisions (c) and (d), may appeal that action or inaction to the board.

(f) The board may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency's review pursuant to this section.

(g) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing within 45 days of the filing of the appeal, or any longer period as may be mutually agreed upon by the board and the person filing the appeal. In hearing an appeal, the board shall only determine whether the reclamation plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. A reclamation plan or financial assurances determined to meet these requirements shall be approved. A reclamation plan or financial assurances determined not to meet these requirements shall be returned to the person filing the appeal with a notice of deficiencies, who shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the board, to correct the noted deficiencies and submit the revised reclamation plan or the revised financial assurances to the lead agency for review and approval.

(h)(1) Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code. The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan, for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

(2) The interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

(A) Renew the interim management plan for another period not to exceed five years, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.

(B) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

(3) The financial assurances required by Section 2773.1 shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idle after the expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.

(4) Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to subdivision (a) of Section 2774, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

(5) The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the governing body.

(6) Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the lead agency's governing body, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) Any enforcement action which may be brought against a surface mining operation for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to subdivision (b), (c), (d), or (h) or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h).

Comment. Section 2770 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 2772 (amended). Reclamation plan

SEC. ____ . Section 2772 of the Public Resources Code is amended to read:

2772. (a) The reclamation plan shall be filed with the lead agency, on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations on the lands.

(b) All documentation for the reclamation plan shall be submitted by the lead agency to the department at one time.

(c) The reclamation plan shall include all of the following information and documents:

(1) The name and address of the surface mining operator and the names and addresses of any persons designated by the operator as an agent for the service of process.

(2) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(3) The proposed dates for the initiation and termination of surface mining operation.

(4) The maximum anticipated depth of the surface mining operation.

(5) The size and legal description of the lands that will be affected by the surface mining operation, a map that includes the boundaries and topographic details of the lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands, the location of all proposed access roads to be constructed in conducting the surface mining operation, and the names and addresses of the owners of all surface interests and mineral interests in the lands.

(6) A description of, and a plan for, the type of surface mining to be employed, and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.

(7) A description of the proposed use or potential uses of the mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(8) A description of the manner in which reclamation, adequate for the proposed use or potential uses will be accomplished, including both of the following:

(A) A description of the manner in which contaminants will be controlled, and mining waste will be disposed.

(B) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation will occur.

(9) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(10) A statement that the person submitting the reclamation plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

(11) Any other information which the lead agency may require by ordinance.

(d) An item of information or a document required pursuant to subdivision (c) that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code, may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the lead agency submits the reclamation plan to the director for review. To the extent that the information or document referenced in the reclamation plan is used to meet the requirements of subdivision (c), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this article.

(e) Nothing in this section is intended to limit or expand the department's authority or responsibility to review a document in accordance with Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code.

Comment. Section 2772 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 2774 (amended). Review and approval of plan

SEC. ____ . Section 2774 of the Public Resources Code is amended to read:

2774. (a) Every lead agency shall adopt ordinances in accordance with state policy which establish procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, to ensure that the ordinances continue to be in accordance with state policy.

(b) The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall a lead agency inspect a surface mining operation less than once in any calendar year. The lead agency may cause such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the surface mining operation in any capacity during the previous 12 months. All inspections shall be conducted using a form developed by the department and approved by the board. The operator shall be solely responsible for the reasonable cost of the inspection. The lead agency shall notify the director within 30 days of the date of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mining operation's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b), (c), (d), or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate. The lead agency shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

(c) Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the lead agency pursuant to subdivision (c) of Section 2770, or any amendments, the lead agency shall submit the plan, assurances, or amendments

to the director for review. All documentation for that submission shall be submitted to the director at one time. When the lead agency submits a reclamation plan or plan amendments to the director for review, the lead agency shall also submit to the director, for use in reviewing the reclamation plan or plan amendments, information from any related document prepared, adopted, or certified pursuant to Division 13 3 (commencing with Section 21000) of the Environment Code, and shall submit any other pertinent information. The lead agency shall certify to the director that the reclamation plan is in compliance with the applicable requirements of Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations in effect at the time that the reclamation plan is submitted to the director for review.

(d)(1) The director shall have 30 days from the date of receipt of a reclamation plan or plan amendments submitted pursuant to subdivision (c), and 45 days from the date of receipt of financial assurances submitted pursuant to subdivision (c), to prepare written comments, if the director so chooses. The lead agency shall evaluate any written comments received from the director relating to the reclamation plan, plan amendments, or financial assurances within a reasonable amount of time.

(2) The lead agency shall prepare a written response to the director's comments describing the disposition of the major issues raised. In particular, if the lead agency's position is at variance with any of the recommendations made, or objections raised, in the director's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator.

(3) To the extent that there is a conflict between the comments of a trustee agency or a responsible agency that are based on the agency's statutory or regulatory authority and the comments of other commenting agencies which are received by the lead agency pursuant to Division 13 3 (commencing with Section 21000) of the Environment Code regarding a reclamation plan or plan amendments, the lead agency shall consider only the comments of the trustee agency or responsible agency.

(e) Lead agencies shall notify the director of the filing of an application for a permit to conduct surface mining operations within 30 days of such an application being filed with the lead agency. By July 1, 1991, each lead agency shall submit to the director for every active or idle mining operation within its jurisdiction, a copy of the mining permit required pursuant to Section 2774, and any conditions or amendments to those permits. By July 1 of each subsequent year, the lead agency shall submit to the director for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the director the information required under this section shall be cause for action under Section 2774.4.

Comment. Section 2774 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 3715.5 (amended). Application of CEQA

SEC. ____ . Section 3715.5 of the Public Resources Code is amended to read:

3715.5. For the purposes of the California Environmental Quality Act (commencing with Section 21000 of the Environment Code), the division shall be the lead agency as defined in Section 21067 of the Environment Code for all geothermal exploratory projects as defined in Section 21065.5 of the Environment Code. The division shall complete all its responsibilities pursuant to the California Environmental Quality Act, including public and agency review and approval or disapproval of the project, within 135 days of the receipt of the application for such project. The division may delegate its lead agency responsibility under this section to a county which has adopted a geothermal element, as defined in Section 25133, for its general plan. Any such delegation shall provide that the county complete its lead agency responsibility under this section within 135 days of the receipt of the application for such project. The provisions of this section shall not apply to geothermal exploratory projects as defined in Section 21065.5 of the Environment Code where, prior to January 1, 1979, preparation of an environmental impact report for such project has begun or an application for such project which will require preparation of an environmental impact report has been filed.

Comment. Section 3715.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 4467 (amended). Elements in plan

SEC. _____. Section 4467 of the Public Resources Code is amended to read:

4467. (a) Each plan shall include, but shall not be limited to, elements regarding wildland fuel management and reduction, air and water quality, water conservation and watershed improvement, soil conservation, wildlife habitat improvement and protection, range and forage improvement, and timberland improvement and protection.

(b) The plan shall be prepared in accordance with the California Environmental Quality Act (commencing with Section 21000 of the Environment Code) and, when approved, shall constitute the environmental impact report for the implementation of the plan for each area of wildlands designated by the board.

(c) The department shall coordinate the development of each plan with the general plan of each county in which the experimental program is conducted and shall, to the maximum extent feasible, conform the plan to the land-use plans and objectives of state and local government.

(d) Copies of each plan shall be made available to each county, resource conservation district, and person owning land in the area in which the experimental program is conducted.

Comment. Section 4467 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 4582.6 (amended). Timber harvesting plan

SEC. _____. Section 4582.6 of the Public Resources Code is amended to read:

4582.6. (a) Upon receipt of the timber harvesting plan, the department shall place it, or a true copy thereof, in a file available for public inspection in the county in which timber operations are proposed under the plan, and, for the purpose of interdisciplinary review, shall transmit a copy to the Department of Fish and Game, the appropriate California regional water quality control board, the county planning agency, and, if the area is within its jurisdiction, the Tahoe Regional Planning Agency, as the case may be. The department shall invite, consider, and respond in writing to comments received from public agencies to which the plan has been transmitted and shall consult with those agencies at their request.

(b) Within the public comment period, any responsible agency, as defined in Section 21069 of the Environment Code, shall provide the department with specific comments or recommendations, or both, on any significant environmental issues and proposed mitigation measures raised by the timber harvesting plan. The responsible agency shall also identify its statutory authority for any requests for mitigation measures that it may determine to be necessary. If the responsible agency fails to respond by the end of the public comment period, the department may assume that the responsible agency has no comments or recommendations concerning the timber harvesting plan, but the failure of the responsible agency to make comments or recommendations shall not be used as the basis for a determination or presumption that the timber harvesting plan will have no significant effect on the environment. The department shall consider all comments and recommendations received from responsible agencies and from the public during the public comment period. If a responsible agency fails to respond within the public comment period, it may request additional time to respond. The director may grant an extension of the time to respond of up to 14 calendar days if he or she determines, after consultation with the person submitting the timber harvesting plan, that an extension is necessary.

(c) To ensure that all public comments and concerns are considered by the department, each responsible agency shall maintain a list of written information it disseminates on the timber harvesting plan under review prior to the close of the public comment period.

(d) On and after July 1, 1983, the board of supervisors or planning commission of any county for which rules have been adopted pursuant to Section 4516.5 may request a public hearing on any timber harvesting plan submitted for lands within the county, and the department shall hold a hearing for the purpose of public comment, if requested, prior to taking any action on the timber harvesting plan pursuant to Section 4582.7. The hearing shall be held in the county in which the proposed harvest is located at a time and place convenient to the public. The hearing shall be held in county offices if made available by the county for that purpose. The chairperson of the hearing shall be a representative of the department, shall receive both oral and written testimony from members of the public, local government officials, persons submitting the plans, and others, and shall provide for the hearing to be electronically recorded. The department shall prepare and make available written responses to significant issues raised at the hearing. The requirements of this subdivision shall not be construed as extending the time within which any action is required to be taken pursuant to Section 4582.7.

Comment. Section 4582.6 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 4800 (amended). Legislative intent

SEC. ____. Section 4800 of the Public Resources Code is amended to read:

4800. It is the intent of the Legislature, in enacting this chapter, to do all of the following:

(a) To provide coordination on wildlife and timberland issues within the Resources Agency.
(b) To improve and coordinate the state data bases for use in analyzing the cumulative impacts of timber harvesting pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code).

(c) To improve the technical basis upon which the Department of Fish and Game predicates recommendations for mitigating site-specific and cumulative effects on wildlife from timber harvesting activities.

(d) To provide recommendations to the board concerning creation of a list of species of special concern for which additional forest practices rules may be needed.

(e) To provide recommendations to the Fish and Game Commission concerning additions to its list of species that are threatened or endangered.

(f) To provide authority to the state to work cooperatively with the United States Forest Service, including the ability to provide and receive funding for wildlife studies.

Comment. Section 4800 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5002.2 (amended). Classification or reclassification of unit

SEC. ____. Section 5002.2 of the Public Resources Code is amended to read:

5002.2. (a) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, as the case may be, for the unit.

The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit.

The general plan constitutes a report on a project for the purposes of Section 21100 of the Environment Code. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific

long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.

(c) Notwithstanding the requirements of subdivision (a), the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan, as the case may be, if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, so long as such construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination thereof at a single unit. Any development is subject to the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code).

(d) Any general plan approved prior to July 1, 1972, may be used as the basis for development if the director finds that there has been no significant change in the resources of the unit since approval of the plan and that the plan is compatible with current policies governing development of the unit and the classification of the unit.

(e) Consistent with good planning and sound resource management, the department shall, in discharging its responsibilities under this section, attempt to make units of the state park system accessible and usable by the general public at the earliest opportunity.

(f) The department may prepare a general plan which includes more than one unit of the state park system for units which are in close proximity to one another and which have similar resources and recreational opportunities if that action will facilitate the protection of public resources and public access to units of the state park system.

Comment. Section 5002.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5072.8 (amended). Recreational Trails Fund

SEC. ____ . Section 5072.8 of the Public Resources Code is amended to read:

5072.8. (a) The Recreational Trails Fund is hereby created. Moneys in the Recreational Trails Fund shall be available, upon appropriation by the Legislature, to the department for competitive grants to cities, counties, districts, state agencies, and nonprofit organizations with management responsibilities over public lands to acquire and develop recreational trails.

(b) The Controller shall promptly transfer all money received by the state from the federal government as allocations from the National Recreational Trails Trust Fund pursuant to the Steve Symms National Recreational Trails Fund Act of 1991 (P.L. 102-240) and deposited in the Federal Trust Fund, to the Recreational Trails Fund. The money in the Recreational Trails Fund shall be available to the department for expenditure, upon appropriation by the Legislature, for grants pursuant to subdivision (a), in accordance with the Steve Symms National Recreational Trails Fund Act of 1991. Seventy percent of the money received by the state from the federal government and transferred to the Recreational Trails Fund pursuant to this subdivision shall be available only for nonmotorized recreational trails with at least one-half of that amount available only for grants to cities, counties, districts, and nonprofit organizations for the acquisition and development of new nonmotorized recreational trails and the reconstruction or relocation of existing nonmotorized recreational trails.

(c) The department shall prepare and adopt criteria and procedures for evaluating applications for grants, which, at a minimum, shall include certification that the project is consistent with the applicant's general plan or the equivalent planning document, complies with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code) and other environmental protection laws and regulations, and is not required as a mitigation measure as a condition for a permit or other entitlement. The department shall forward to the Director

of Finance for inclusion in the Governor's Budget of each fiscal year all projects that are recommended for funding and those projects shall be contained in the Budget Bill for that fiscal year.

(d) No grant shall be made from the Recreational Trails Fund to an applicant unless the applicant agrees to both of the following conditions:

(1) To maintain and operate the property acquired, developed, rehabilitated, or restored with the funds in perpetuity. With the approval of the department, the applicant or its successors in interest in the property may transfer the responsibility to maintain and operate the property in accordance with this section. In the case of lands not held in fee by the applicant (limited tenure projects), perpetuity shall be in accordance with the tenure or for the length of time sufficient to provide public benefits commensurate with the type and duration of interest in land held by the applicant.

(2) To use the property only for the purposes of the grant and to make no other use, sale, or other disposition or conversion of the property except as authorized by a specific act of the Legislature and the property shall be replaced with property of equivalent value and usefulness as determined by the department. The property acquired or developed may be transferred to another public agency if the successor agency assumes the obligations imposed under this chapter.

(e) All applicants for a grant pursuant to this section shall submit an application to the department for approval. Each application shall include in writing the conditions specified in paragraphs (1) and (2) of subdivision (d).

Comment. Section 5072.8 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5090.32 (amended). Functions, duties and responsibilities performed by division

SEC. ____. Section 5090.32 of the Public Resources Code is amended to read:

5090.32. All of the following functions, duties, and responsibilities of the department shall be performed exclusively by the division:

(a) The planning, acquisition, development, construction, and conservation and rehabilitation of lands in and for the system.

(b) The direct management, maintenance, administration, and operation of lands in the system and the providing of law enforcement and appropriate public safety activities.

(c) Management of the fund.

(d) The implementation of all aspects of the program.

(e) Ensuring program compliance with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code) in state vehicular recreation areas.

Comment. Section 5090.32 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5090.50 (amended). Trails and related uses

SEC. ____. Section 5090.50 of the Public Resources Code is amended to read:

5090.50. Grants may be made to cities, counties, and appropriate districts for the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, trailheads, areas, and other facilities for the use of off-highway motor vehicles that are in accordance with local plans and any plans for off-highway motor vehicle recreation areas and trails prepared by the division and for the enforcement of laws and regulations regarding the use of off-highway vehicles within the project site.

Every applicant for a grant shall comply with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code). This paragraph is declaratory of, and does not constitute a change in, existing law.

Comment. Section 5090.50 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5090.55 (amended). Funding for cooperative agreements

SEC. _____. Section 5090.55 of the Public Resources Code is amended to read:

5090.55. (a) Any moneys in the fund allocated pursuant to subdivision (a) of Section 5090.61 and not appropriated for local assistance grants pursuant to Section 5090.50, shall be available for appropriation to the division for expenditure pursuant to cooperative agreements with agencies of the United States or federally recognized Indian reservations for any joint undertaking of any function that the division is authorized by this chapter to perform.

(b) No cooperative agreement shall become effective until the division has determined that the participating agency of the United States has completed environmental review procedures that are at least comparable to those of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

(c) All new acquisitions, development projects, and cooperative agreements shall be subject to the uniform application of soil, wildlife, and habitat protection standards required at state vehicular recreation areas.

Comment. Section 5090.55 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5096.89 (amended). Application for state grant

SEC. _____. Section 5096.89 of the Public Resources Code is amended to read:

5096.89. An application for a state grant pursuant to subdivision (a) of Section 5096.85 shall be submitted to the Secretary of the Resources Agency. The application for the state grant shall be accompanied by an adopted plan showing park and recreation lands and facilities, existing and proposed, sufficient to enable the state to determine the needs of the general public for recreation lands and facilities in the applicant's jurisdiction and the quality and quantity thereof. The project for which funds are being requested shall appear on the applicant's plan. The applicant shall state that the project is compatible with the land use plans of those jurisdictions immediately surrounding the project. Where the project land or facilities are located outside the political boundaries of the applicant, such project lands or facilities shall appear on the adopted plan of the jurisdiction in which the project is located. Prior to the approval of any project, the applying jurisdiction's park stewardship history will be reviewed for protecting existing park and recreation and open-space resources and operating and maintaining areas to acceptable standards. The Secretary of the Resources Agency, in cooperation with the Office of Planning and Research, shall review the material submitted by the county or counties for completeness and conformity with the State Environmental Goals and Policy Report. All applications shall contain an environmental impact statement in compliance with the Environmental Quality Act of 1970 (commencing with Section 21000 of the ~~Public Resources~~ Environment Code).

Upon completion of the review by the Secretary of the Resources Agency, approved projects shall be forwarded to the Governor for inclusion in the Budget Bill.

Comment. Section 5096.89 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5096.130 (amended). Grant application review

SEC. _____. Section 5096.130 of the Public Resources Code is amended to read:

5096.130. (a) An application for a grant pursuant to subdivision (a) of Section 5096.124 shall be submitted to the Director of Parks and Recreation for review. The application shall be accompanied by a certification from the planning agency of the applicant that the project is consistent with the park and recreation plan for the applicant's jurisdiction.

(b) The minimum amount that may be applied for any individual grant project is ten thousand dollars (\$10,000). Any application for a state grant shall comply with the provisions of the Environmental Quality Act of 1970 (commencing with Section 21000 of the Environment Code).

(c) Upon completion of the grant application review by the Director of Parks and Recreation, approved projects shall be forwarded to the Director of Finance for inclusion in the Budget Bill.

Comment. Section 5096.130 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5096.157 (amended). Local assistance grants

SEC. _____. Section 5096.157 of the Public Resources Code is amended to read:

5096.157. (a) An application for a local assistance grant pursuant to this article shall be submitted to the Director of Parks and Recreation for review. The application shall be accompanied by certification from the planning agency of the applicant that the project is consistent with the park and recreation plan for the applicant's jurisdiction and would satisfy a demonstrated need.

(b) The minimum amount that may be applied for any individual project is twenty thousand dollars (\$20,000).

(c) Every application for a grant shall comply with the provisions of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

(d) Upon completion of the review of applications submitted pursuant to subdivision (a), approved projects shall be forwarded to the Director of Finance for inclusion in the Budget Bill.

Comment. Section 5096.157 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5096.174 (amended). Grant application evaluation

SEC. _____. Section 5096.174 of the Public Resources Code is amended to read:

5096.174. (a) An application for a grant shall be submitted to the State Coastal Conservancy for preliminary evaluation, review of adequacy, and classification as a park, beach, coastal access, or other project necessary to preserve coastal resource values.

(b) The minimum amount that may be applied for any individual project is one thousand dollars (\$1,000).

(c) Every application for a grant shall comply with the provisions of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

Comment. Section 5096.174 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5096.236 (amended). Local assistance grant application

SEC. _____. Section 5096.236 of the Public Resources Code is amended to read:

5096.236. (a) An application for a local assistance grant pursuant to this article shall be submitted to the Director of Parks and Recreation for review. Except for an application for a grant under category (4) or (5) of subdivision (a) of Section 5096.231, the application shall be accompanied by certification from the planning agency of the applicant that the project is consistent with the park and recreation plan for the applicant's jurisdiction and would satisfy a demonstrated need.

(b) The minimum amount that may be applied for any individual project is ten thousand dollars (\$10,000).

(c) Every application for a grant shall comply with the provisions of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

(d) Upon completion of the review of applications submitted pursuant to subdivision (a), approved projects shall be forwarded to the Director of Finance for inclusion in the Budget Bill.

Comment. Section 5096.236 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5096.244 (amended). State Coastal Conservancy oversight

SEC. _____. Section 5096.244 of the Public Resources Code is amended to read:

5096.244. (a) The State Coastal Conservancy shall prepare and adopt priorities, criteria, and procedures for the making of grants to local public agencies or non-profit organizations pursuant to Section 5096.232.

The procedures shall specify the categories of expenditures for grants, and shall include procedures for the submittal, review, and approval of applications, disbursements, and, where appropriate, repayment of grant funds.

(b) An application for a grant pursuant to this article shall be submitted to the State Coastal Conservancy for evaluation, review of adequacy, and classification as a park, beach, coastal access, or other project necessary to protect coastal resource values.

(c) The minimum amount that may be applied for any individual project is one thousand dollars (\$1,000).

(d) Every application for a grant shall comply with the provisions of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

(e) Funds granted pursuant to Section 5096.232 may be expended for development, rehabilitation, or restoration only on lands owned by, or subject to a lease or other interest held by, the applicant. If those lands are not owned by the applicant, the applicant shall first demonstrate to the satisfaction of the State Coastal Conservancy that the development, rehabilitation, or restoration will provide benefits commensurate with the type and duration of interest in land held by the applicant.

(f) No state grant funds authorized under Section 5096.232 may be disbursed until the applicant agrees that any property acquired or developed with the funds shall be used by the applicant only for the purpose for which the funds were requested and that no other use, sale, or other disposition of the property shall be permitted except by specific act of the Legislature. If the use of the property is changed to one other than permitted under the category in Section 5096.232 from which the funds were appropriated, or the property is sold or otherwise disposed of, an amount equal to the amount of the grant or equal to the fair market value of the real property, or portion thereof, acquired or developed with the grant, whichever is greater, shall be used by the local public agency or the nonprofit organization for a purpose authorized in that category or shall be reimbursed to the State Coastal Conservancy Fund of 1984 for a use authorized in that category.

(g) No state grant funds authorized under Section 5096.232 may be disbursed unless the applicant agrees to maintain and operate the property acquired or developed pursuant to this article for a period commensurate with the type of project and the proportion of state grant funds and local funds allocated to the capital costs of the project.

(h) The State Coastal Conservancy shall report to the Legislature annually, on or before January 1, on the implementation of urban waterfront projects and local coastal program projects under categories (b) and (c) of Section 5096.232.

Comment. Section 5096.244 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5097.9 (amended). protection of Native American religion

SEC. _____. Section 5097.9 of the Public Resources Code is amended to read:

5097.9. No public agency, and no private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, shall in any manner whatsoever interfere with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; nor shall any such agency or party cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. The provisions of this chapter shall be enforced by the commission, pursuant to Sections 5097.94 and 5097.97.

The provisions of this chapter shall not be construed to limit the requirements of the Environmental Quality Act of 1970, Division 13 3 (commencing with Section 21000) of the Environment Code.

The public property of all cities, counties, and city and county located within the limits of the city, county, and city and county, except for all parklands in excess of 100 acres, shall be exempt from the provisions of this chapter. Nothing in this section shall, however, nullify protections for Indian cemeteries under other statutes.

Comment. Section 5097.9 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5097.98 (amended). Native American human remains

SEC. _____. Section 5097.98 of the Public Resources Code is amended to read:

5097.98. (a) Whenever the commission receives notification of a discovery of Native American human remains from a county coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendants may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendation within 24 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

(b) Whenever the commission is unable to identify a descendant, or the descendant identified fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendant and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

(c) Notwithstanding the provisions of Section 5097.9, the provisions of this section, including those actions taken by the landowner or his or her authorized representative to implement this section and any action taken to implement an agreement developed pursuant to subdivision (l) of Section 5097.94, shall be exempt from the requirements of the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

(d) Notwithstanding the provisions of Section 30244, the provisions of this section, including those actions taken by the landowner or his or her authorized representative to implement this section, and any action taken to implement an agreement developed pursuant to subdivision (l) of Section 5097.94 shall be exempt from the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)).

Comment. Section 5097.98 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5721 (amended). Grant applications

SEC. _____. Section 5721 of the Public Resources Code is amended to read:

5721. (a) Individual applications for grants shall be submitted to the department for approval as to conformity with the requirements of this chapter. The application shall be accompanied by certification from the planning agency of the applicant that the project for which the grant is applied is consistent with the park and recreation element of the applicable city or county's general plan or the district's park and recreation plan and will satisfy a high priority need. In order to utilize available

grant funds as effectively as possible, overlapping or adjoining jurisdictions are encouraged to combine projects and submit a joint application.

(b) The minimum amount that the applicant may request for any individual project is twenty thousand dollars (\$20,000).

(c) Every application shall comply with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

(d) Grants that are wholly or partially for the acquisition of real property shall be made on the basis of 75 percent state funds and 25 percent local matching funds or property donated to be part of the project. The grant recipient shall certify to the department that there is available, or will become available prior to the commencement of any work on the project, matching funds or property in the required amount from a nonstate source. Certification of the source and amount or value shall be set forth in the application.

(e) The director shall annually forward a statement of the total amount to be appropriated in each fiscal year for projects approved for grants to the Director of Finance for inclusion in the Budget Bill. The amount of grant funds to be allocated to each eligible jurisdiction shall be published in the Governor's Budget for the fiscal year in which the appropriation for those grants is to be made and, as soon as possible thereafter, a list of projects for which grants have been approved shall be made available by the department.

(f) Grant funds shall be encumbered by the recipient within three years of the date the appropriation became effective, regardless of the date when the project was approved by the department pursuant to this section.

Comment. Section 5721 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 5918 (amended). Application of CEQA

SEC. _____. Section 5918 of the Public Resources Code is amended to read:

5918. Every expenditure pursuant to this division shall comply with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code).

Comment. Section 5918 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 6217 (amended). Deposit of revenues

SEC. _____. Section 6217 of the Public Resources Code is amended to read:

6217. (a) With the exception of revenue derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and Sections 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenue, money, and remittances received by the commission under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and those funds shall be applied to the following obligations in the following order:

(1) To the General Fund, the revenue necessary to provide in any fiscal year for the following:

(A) Payment of refunds, authorized by the commission, out of appropriations made for that purpose by the Legislature.

(B) Payment of expenditures of the commission as provided in the annual Budget Act enacted by the Legislature.

(C) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for that purpose.

(D) Payments to cities and counties of the amounts agreed to pursuant to Section 6875.

(2) To the California Housing Trust Fund, each fiscal year, the amount of two million dollars (\$2,000,000).

(3)(A) To the Resources Trust Fund, which is hereby created in the State Treasury.

(B) The Controller shall transfer the sum of thirty million three hundred forty-seven thousand dollars (\$30,347,000) of the revenue, money, and remittances received by the State Lands Commission pursuant to this section in the 1997-98 fiscal year to the Resources Trust Fund. The Controller shall transfer the balance, if any, of all such revenue, money, and remittances received by the commission in the 1997-98 fiscal year to the General Fund.

(C) Commencing July 1, 1998, the Controller shall, after meeting the obligations in paragraphs (1) and (2), transfer the balance of all such revenue, money, and remittances received by the commission pursuant to this section in each fiscal year to the Resources Trust Fund.

(D) The money in the Resources Trust Fund shall be collected for the purposes of, and held in trust for, preserving and protecting the natural and recreational resources of the state, as specified in subdivisions (b) and (c) and in Section 6217.1.

(b) The Salmon and Steelhead Trout Restoration Account is hereby created in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Fish and Game for expenditure for the recovery of coho salmon, other species of salmon, and anadromous trout pursuant to Section 6217.1 of this code and Chapter 8 (commencing with Section 2760) of Division 3 of the Fish and Game Code.

(c) The Natural Resources Infrastructure Fund is hereby created as an account in the Resources Trust Fund. The money in the Natural Resources Infrastructure Fund shall be available for expenditure, upon appropriation by the Legislature, for the purposes of preserving and protecting the natural and recreational resources of the state in accordance with paragraph (3) of subdivision (d).

(d)(1) Of the amount deposited in the Resources Trust Fund for the 1997-98 fiscal year pursuant to subparagraph (B) of paragraph (3) of subdivision (a), the Controller shall transfer the sum of three million dollars (\$3,000,000) to the Salmon and Steelhead Trout Restoration Account, and the sum of twenty-seven million three hundred forty-seven thousand dollars (\$27,347,000) to the Natural Resources Infrastructure Fund.

(2) Commencing July 1, 1998, of the amount deposited for each fiscal year in the Resources Trust Fund pursuant to subparagraph (C) of paragraph (3) of subdivision (a), the Controller shall annually transfer eight million dollars (\$8,000,000) to the Salmon and Steelhead Trout Restoration Account. However, the Controller may transfer less than eight million dollars (\$8,000,000) if the Controller determines that the Resources Trust Fund will receive less than that amount during the fiscal year. If the Controller makes that determination, the Controller shall transfer the entire balance of the Resources Trust Fund to the Salmon and Steelhead Trout Restoration Account.

(3) If, after making the annual transfer required by paragraph (2), any money remains in the Resources Trust Fund, the Controller shall, commencing July 1, 1998, annually transfer the balance of the trust fund to the Natural Resources Infrastructure Fund. Priority for the use of the money in the Natural Resources Infrastructure Fund shall be given to the following:

(A) For expenditure by the Department of Fish and Game, upon appropriation by the Legislature, for environmental review and monitoring, consultation with lead agencies, recommending mitigation measures, and enforcement related activities pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code.

(B) For expenditure, upon appropriation by the Legislature, for the purposes of land acquisition in Orange County and San Diego County pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code.

(C) For expenditure to meet the requirements of Section 2796 of the Fish and Game Code that are not met pursuant to Section 2795 of the Fish and Game Code, upon appropriation by the Legislature.

(D) For expenditure for nonpoint source pollution control programs of the State Water Resources Control Board and the California Coastal Commission, upon appropriation by the Legislature.

(e) The Controller shall transfer any unencumbered balances remaining in the Salmon and Steelhead Trout Restoration Account and the Natural Resources Infrastructure Fund on June 30 of each year to the General Fund.

(f) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Section 6217 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 6371 (amended). Disposition of lands under State Lands Commission

SEC. _____. Section 6371 of the Public Resources Code is amended to read:

6371. Until submission of the report required in Section 6370.2 the State Lands Commission shall not sell any of the lands under its jurisdiction unless it has made a finding at a public meeting that such sale is necessary for the health, welfare or safety of the people of the state or a finding that such land would not meet the intent of environmentally significant lands indicated in Section 6370; provided, however, that this section and Sections 6372, 6373, 6374, and 6375 shall not be applicable to settlements of title and boundary problems by the commission and exchanges in connection therewith. The commission shall not lease any of the lands under its jurisdiction unless it shall have complied with the environmental impact report requirements of Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code and rules and regulations adopted by the commission pursuant to Section 21082 of the Environment Code.

Comment. Section 6371 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 6873.2 (amended). Application of CEQA

SEC. _____. Section 6873.2 of the Public Resources Code is amended to read:

6873.2. In carrying out the requirements of subdivision (b) of Section 6873 and the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code), the commission shall, prior to leasing tide and submerged lands or the beds of navigable rivers or lakes for oil and gas, hold at least one hearing on any draft environmental impact report prepared for the proposed lease. The hearing shall be held within a city or county near the area being considered for leasing. The commission shall give at least 30 days' written notice regarding the public hearing to each city or county within or adjacent to the proposed lease area and shall publish the notice in the manner prescribed in Section 6834. The authority to hold hearings provided in this section may be delegated by the commission to its officers or employees.

Comment. Section 6873.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 8631 (amended). Applicable law

SEC. _____. Section 8631 of the Public Resources Code is amended to read:

8631. The provisions of this division shall not be subject to the provisions of the California Environmental Quality Act (commencing with Section 21000 of the ~~Public Resources Environment~~ Code), the Subdivision Map Act (commencing with Section 66410 of the Government Code), or the Property Acquisition Law (commencing with Section 15850 of the Government Code).

Comment. Section 8631 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 8710 (amended). Applicable law

SEC. _____. Section 8710 of the Public Resources Code is amended to read:

8710. Actions under this division are not subject to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code), the Subdivision Map Act (Division 2 (commencing with Section 66410 of Title 7 of the Government Code)), or the

Property Acquisition Law (Part 11 (commencing with Section 15850)) of Division 3 of Title 2 of the Government Code).

Comment. Section 8710 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 25404 (amended). Cooperation among interested parties

SEC. _____. Section 25404 of the Public Resources Code is amended to read:

25404. The commission shall cooperate with the Office of Planning and Research, the Resources Agency and other interested parties in developing procedures to ensure that mitigation measures to minimize wasteful, inefficient, and unnecessary consumption of energy are included in all environmental impact reports required on local projects as specified in Section 21151 of the Environment Code.

Comment. Section 25404 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 25519 (amended). Application for certification of site and related facility

SEC. _____. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of such site and related facility shall be filed with the commission. Such application shall be in a form prescribed by the commission and shall be for a site and related facility which has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site which has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility which was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), which it determines is reasonably necessary to make any decision on the application.

(c) The commission shall be the lead agency as provided in Section 21165 of the Environment Code for all projects which require certification pursuant to this chapter and for projects which are exempted from such certification pursuant to Section 25541. Unless the commission's regulatory program governing site and facility certification and related proceedings are certified by the Resources Agency pursuant to Section 21080.5 of the Environment Code, an environmental impact report shall be completed within one year after receipt of the application. If the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5 of the Environment Code, any other public agency which must make a decision which is subject to the California Environmental Quality Act, Division 13 3 (commencing with Section 21000) of the Environment Code, on a site or related facility, shall use the document or documents prepared by the commission in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Such local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(i) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. In the event the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of such modifications.

(j) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each such agency. The commission shall request any relevant laws, ordinances, or regulations which any such agency has promulgated or administered.

(k) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

Comment. Section 25519 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 25540.4 (amended). Time for decision

SEC. _____. Section 25540.4 of the Public Resources Code is amended to read:

25540.4. Notwithstanding any other provision of law:

(a) The decision of the commission on an application for an additional facility at a potential multiple facility site shall be issued within three months after the acceptance of the application or at such later time as is mutually agreed upon by the commission and the applicant.

(b) In reviewing an application for an additional facility at a potential multiple facility site, the commission may, upon a showing of good cause, undertake a reconsideration of its prior determinations in the final report for the site pursuant to Section 25514 or its decision pursuant to Section 25523 based on current conditions and other reasonable alternatives to the proposed facility. Such reconsideration must be completed within seven months after acceptance of such application for an additional facility.

(c) The commission shall, pursuant to Section 21100.2 of the Environment Code, provide by resolution or order for completing and certifying the environmental impact report within the time limits established by subdivisions (a) and (b).

Comment. Section 25540.4 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 25541.5 (amended). Regulatory program

SEC. _____. Section 25541.5 of the Public Resources Code is amended to read:

25541.5. The commission shall, not later than January 31, 1979, adopt regulations pursuant to this chapter which comply with all the requirements of this chapter and Section 21080.5 of the Environment Code, and shall submit a regulatory program to the Secretary of the Resources Agency for certification pursuant to Section 21080.5 of the Environment Code. After certification by the Secretary of the Resources Agency, the commission shall amend such regulatory program from time to time, as necessary to permit the Secretary to continue to certify the program.

Comment. Section 25541.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 25985 (amended). CEQA exemption

SEC. _____. Section 25985 of the Public Resources Code is amended to read:

25985. Any city, or for unincorporated areas, any county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of such an ordinance shall not be subject to the provisions of the California Environmental Quality Act (commencing with Section 21000 of the Environment Code).

Comment. Section 25985 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 26559 (amended). Application of CEQA

SEC. _____. Section 26559 of the Public Resources Code is amended to read:

26559. All activities of a local agency taken pursuant to this division for the formation of a district or the annexation of territory thereto are specific actions necessary to prevent or mitigate an emergency within the meaning of paragraph (4) of subdivision (b) of Section 21080 of the Environment Code.

Comment. Section 26559 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 26601 (amended). Application of CEQA

SEC. _____. Section 26601 of the Public Resources Code is amended to read:

26601. Improvement caused to be undertaken pursuant to this division, and all activities in furtherance thereof or in connection therewith, shall be deemed to be specific actions necessary to prevent or mitigate an emergency within the meaning of paragraph (4) of subdivision (b) of Section 21080 of the Environment Code.

Comment. Section 26601 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 30600 (amended). Coastal development permit

SEC. _____. Section 30600 of the Public Resources Code is amended to read:

30600. (a) Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066 70 of the Environment Code, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit.

(b)(1) Prior to certification of its local coastal program, a local government may, with respect to any development within its area of jurisdiction in the coastal zone and consistent with the provisions of

Sections 30604, 30620, and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit. Those procedures may be incorporated and made a part of the procedures relating to any other appropriate land use development permit issued by the local government.

(2) A coastal development permit from a local government shall not be required by this subdivision for any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled, or for any development by a public agency for which a local government permit is not otherwise required.

(c) If prior to certification of its local coastal program, a local government does not exercise the option provided in subdivision (b), or a development is not subject to the requirements of subdivision (b), a coastal development permit shall be obtained from the commission or from a local government as provided in subdivision (d).

(d) After certification of its local coastal program or pursuant to the provisions of Section 30600.5, a coastal development permit shall be obtained from the local government as provided for in Section 30519 or Section 30600.5.

(e) This section does not apply to any of the following projects, except that notification by the agency or public utility performing any of the following projects shall be made to the commission within 14 days from the date of the commencement of the project:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

Comment. Section 30600 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code. See also Env't Code § 70 ("person" defined).

Pub. Res. Code § 30718 (amended). Approved developments forwarded to commission

SEC. ____. Section 30718 of the Public Resources Code is amended to read:

30718. For developments approved by the commission in a certified master plan, but not appealable under the provisions of this chapter, the port governing body shall forward all environmental impact reports and negative declarations prepared pursuant to the Environmental Quality Act of 1970 (commencing with Section 21000 of the Environment Code) or any environmental impact statements prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) to the commission in a timely manner for comment.

Comment. Section 30718 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 33911 (amended). CEQA exemption

SEC. ____. Section 33911 of the Public Resources Code is amended to read:

33911. The department may receive donations of land and funds for the acquisition of land from local agencies, including special districts, and private entities. Land acquired by the department through donation, purchase, or by any other means, shall be maintained by the department for future

transportation purposes. The acquisition of land by the department for that purpose is not subject to the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the Environment Code) if the land, when received or acquired, is within a statewide or regional priority corridor designated pursuant to Section 65081.3 of the Government Code and the applicable regional transportation planning agency has complied with Section 33913 of the Government Code.

Comment. Section 33911 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 41000 (amended). Source reduction and recycling element

SEC. _____. Section 41000 of the Public Resources Code is amended to read:

41000. (a) On or before July 1, 1992, each city shall prepare, adopt, and, excepting a city and county, submit to the county in which the city is located a source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

(b) Notwithstanding subdivision (a), if a city determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 3 (commencing with Section 21000) of the Environment Code, to the extent that division requires the preparation and certification of an environmental impact report for the element, the city shall do all of the following:

(1) On or before July 1, 1992, the city shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the element. The resolution shall also state a date when the city will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the element.

(2) On or before July 1, 1992, the city shall submit its draft source reduction and recycling element and a copy of the resolution adopted pursuant to paragraph (1) to the county within which the city is located.

(3) Upon completion and certification of the environmental impact report for the source reduction and recycling element, or December 1, 1992, whichever is sooner, the city shall submit its final source reduction and recycling element to the county.

Comment. Section 41000 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 41300 (amended). Source reduction and recycling element

SEC. _____. Section 41300 of the Public Resources Code is amended to read:

41300. (a) On or before July 1, 1992, each county shall prepare and adopt for the unincorporated area a county source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 3 (commencing with Section 21000) of the Environment Code, to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:

(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the element. The resolution shall also state a date when the county will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the element.

(2) On or before July 1, 1992, the county shall submit a copy of the resolution adopted pursuant to paragraph (1) to the board.

(3) Upon completion and certification of the environmental impact report for the source reduction and recycling element, or December 1, 1992, whichever is sooner, the county shall adopt its source reduction and recycling element.

Comment. Section 41300 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 41500 (amended). Household hazardous waste element

SEC. _____. Section 41500 of the Public Resources Code is amended to read:

41500. (a) On or before July 1, 1992, each city shall prepare, adopt, and submit to the county in which the city is located a household hazardous waste element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the city and which should be separated from the solid waste stream.

In preparing a city household hazardous waste element pursuant to this section, a city may use components of a city hazardous waste plan prepared pursuant to subdivision (c) of Section 25135.7 of the Health and Safety Code if the city hazardous waste plan meets the requirements of this article and Section 41802.

(b) Notwithstanding subdivision (a), if a city determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 3 (commencing with Section 21000) of the Environment Code, to the extent that division requires the preparation and certification of an environmental impact report for the element, the city shall do all of the following:

(1) On or before July 1, 1992, the city shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the household hazardous waste element. The resolution shall also state a date when the city will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the household hazardous waste element.

(2) On or before July 1, 1992, the city shall submit its draft household hazardous waste element and a copy of the resolution adopted pursuant to paragraph (1) to the county within which the city is located.

(3) Upon completion and certification of the environmental impact report for the household hazardous waste element, or December 1, 1992, whichever is sooner, the city shall submit its final household hazardous waste element to the county.

Comment. Section 41500 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 41510 (amended). Household hazardous waste element

SEC. _____. Section 41510 of the Public Resources Code is amended to read:

41510. (a) On or before July 1, 1992, each county shall prepare a household hazardous waste element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the unincorporated area of the county and which should be separated from the solid waste stream. In preparing a county household hazardous waste element pursuant to this section, a county may use components of a county hazardous waste management plan prepared pursuant to Section 25135.1 of the Health and Safety Code, if that plan meets the requirements of this article and of Section 41802.

(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 3 (commencing with Section 21000) of the Environment Code, to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:

(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the household hazardous waste element. The resolution shall also state a date when the county will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the household hazardous waste element.

(2) On or before July 1, 1992, the county shall submit its draft household hazardous waste element and a copy of the resolution adopted pursuant to paragraph (1) to the board.

(3) Upon completion and certification of the environmental impact report for the household hazardous waste element, or December 1, 1992, whichever is sooner, the county shall adopt its household hazardous waste element.

Comment. Section 41510 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 41735 (amended). CEQA exemption

SEC. _____. Section 41735 of the Public Resources Code is amended to read:

41735. (a) Notwithstanding Division 13 3 (commencing with Section 21000) of the Environment Code, the adoption or amendment of a nondisposal facility element shall not be subject to environmental review.

(b) Local agencies may impose a fee on project proponents to fund their necessary and actual costs of preparing and approving amendments to nondisposal facility elements.

Comment. Section 41735 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 41783 (amended). Source reduction and recycling element

SEC. _____. Section 41783 of the Public Resources Code is amended to read:

41783. For any city, county, or regional agency source reduction and recycling element submitted to the board after January 1, 1995, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include not more than 10 percent through transformation, as defined in Section 40201, if all of the following conditions are met:

(a) The transformation project is in compliance with ~~Sections 21151.1 and~~ Section 21151.1 of the Environment Code, Section 44150 of this code and Section 42315 of the Health and Safety Code.

(b) The transformation project uses front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible.

(c) The ash or other residue generated from the transformation project is routinely tested at least once quarterly, or on a more frequent basis as determined by the agency responsible for regulating the testing and disposal of the ash or residue, and, notwithstanding Section 25143.5 of the Health and Safety Code, if hazardous wastes are present, the ash or residue is sent to a class 1 hazardous waste disposal facility.

(d) The board holds a public hearing in the city, county, or regional agency jurisdiction within which the transformation project is proposed, and, after the public hearing, the board makes both of the following findings, based upon substantial evidence on the record:

(1) The city, county, or regional agency is, and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.

(2) The transformation project will not adversely affect public health and safety or the environment.

(e) The transformation facility is permitted and operational on or before January 1, 1995.

(f) The city, county, or regional agency does not include biomass conversion, as authorized pursuant to Section 41783, in its source reduction and recycling element.

Comment. Section 41783 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 42812 (amended). CEQA exemption

SEC. _____. Section 42812 of the Public Resources Code is amended to read:

42812. Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code does not apply to the issuance of a permit for the operation of an existing waste tire facility pursuant to this chapter, except as to any substantial change in the design or operation of the waste tire facility made between the time this chapter becomes effective and the permit is initially issued by the board and as to any subsequent substantial changes made in the design or operation of the waste tire facility.

Comment. Section 42812 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 43200 (amended). Certification regulations

SEC. _____. Section 43200 of the Public Resources Code is amended to read:

43200. (a) The board shall prepare and adopt certification regulations for local enforcement agencies. The regulations shall specify requirements that a local agency shall meet before being designated as an enforcement agency. The regulations shall include, but are not limited to, all of the following:

(1) Technical expertise.

(2)(A) Adequacy of staff resources.

(B) For the purposes of this paragraph, the board shall adopt regulations for specified enforcement agencies, as defined in subparagraph (C), which meet all of the following requirements:

(i) The regulations shall not require a specific number of person-hours or staff resources for the performance of duties as a specified enforcement agency.

(ii) The regulations shall establish performance standards for specified enforcement agencies which will provide a comparable level of public health and safety and environmental protection to that required of other local agencies certified pursuant to this article.

(iii) The regulations shall establish procedures to ensure that all duties required of specified enforcement agencies pursuant to this article are actually performed.

(iv) The regulations shall require specified enforcement agency personnel to receive a comparable level of training to that required of personnel employed by other local agencies certified pursuant to this article.

(C) For the purposes of subparagraph (B), “specified enforcement agency” means a local enforcement agency which has a population of less than 50,000 persons.

(3) Adequacy of budget resources.

(4) Training requirements.

(5) The existence of at least one permitted solid waste facility within the jurisdiction of the local agency. For the purposes of this paragraph, “permitted solid waste facility” includes a proposed solid waste facility for which an environmental impact report or negative declaration has been prepared and certified pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code or for which a conditional use permit has been issued by a city or county.

(b) The regulations adopted pursuant to subdivision (a) shall specify four separate types of certifications for which an enforcement agency may be designated, as follows:

(1) Permitting, inspection, and enforcement of regulations at solid waste landfills.

(2) Permitting, inspection, and enforcement of solid waste incinerators.

(3) Permitting, inspection, and enforcement of transfer and processing stations.

(4) Inspection and enforcement of litter, odor, and nuisance regulations at solid waste landfills.

Comment. Section 43200 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 44002 (amended). Solid waste facilities permit

SEC. _____. Section 44002 of the Public Resources Code is amended to read:

44002. (a)(1) No person shall operate a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to this division. If the enforcement agency determines that a person is so operating a solid waste facility, the enforcement agency shall immediately issue a cease and desist order pursuant to Section 45005 ordering the facility to immediately cease operations, and directing the owner or operator of the facility to obtain a solid waste facilities permit in order to resume operation of the facility.

(2) This subdivision shall become operative October 16, 1996.

(b)(1) Notwithstanding subdivision (a), the enforcement agency may stay the issuance of a cease and desist order issued pursuant to subdivision (a) if the solid waste facility meets all of the following conditions:

(A) The facility is in the process of changing its ownership and use, and is in the process of obtaining a new or modified solid waste facilities permit.

(B) The owner or operator of the facility is actively engaging in good faith efforts, as determined by the enforcement agency, to obtain the new or modified solid waste facilities permit in an expeditious manner.

(C) An environmental impact report has been prepared and certified for the solid waste facility pursuant to Division 13 3 (commencing with Section 21000) of the Environment Code.

(D) During the time that the facility is operating without a solid waste facilities permit, the facility is otherwise operating in a manner that is in compliance with this division and with any conditions required for that compliance imposed by the enforcement agency.

(2) A stay granted by the enforcement agency pursuant to paragraph (1) shall be for not more than one year and may be extended by the enforcement agency for a period of time not to exceed one additional year, provided that the operator or proposed operator of the solid waste facility makes a continuing good faith effort, as determined by the enforcement agency, to obtain the solid waste facilities permit and remains in compliance with paragraph (1).

(3) This subdivision shall become inoperative on January 1, 1999.

Comment. Section 44002 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 44004 (amended). Change in design or operation of facility

SEC. _____. Section 44004 of the Public Resources Code is amended to read:

44004. (a) No operator of a solid waste facility shall make any significant change in the design or operation of the solid waste facility not authorized by the existing permit, unless the change is approved by the enforcement agency, and conforms with this division and all regulations adopted pursuant to this division, and the terms and conditions of the solid waste facilities permit are revised to reflect the change.

(b) If the operator wishes to change the design or operation of the solid waste facility in a manner that is not authorized by the existing permit, the operator shall file an application for revision of the existing solid waste facilities permit with the enforcement agency. The application shall be filed at least 150 days in advance of the date when the proposed modification is to take place unless the 150-day time period is waived by the enforcement agency.

(c) The enforcement agency shall review the application to determine all of the following:

(1) Whether the change conforms with this division and all regulations adopted pursuant to this division.

(2) Whether the change requires review pursuant to Division 13 3 (commencing with Section 21000) of the Environment Code.

(d) Within 30 days from the date of the receipt of the application for a revised permit, the enforcement agency shall inform the operator, and if the enforcement agency is a local enforcement agency, also inform the board, of its determination to do any of the following:

(1) Allow the change without a revision to the permit.

(2) Disallow the change because it does not conform with the requirements of this division or the regulations adopted pursuant to this division.

(3) Require a revision of the solid waste facilities permit to allow the change.

(4) Require review under Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code before a decision is made.

(e) The operator has 30 days within which to appeal the decision of the enforcement agency to the hearing panel, as authorized pursuant to Article 2 (commencing with Section 44500) of Chapter 4.

(f) Under circumstances which present an immediate danger to the public health and safety or to the environment, as determined by the enforcement agency, the 120-day filing period may be waived.

(g)(1) A permit revision is not required for the temporary suspension of activities at a solid waste facility if the suspension meets either of the following criteria:

(A) The suspension is for the maintenance or minor modifications to a solid waste unit or to solid waste management equipment.

(B) The suspension is for temporarily ceasing the receipt of solid waste at a solid waste management facility and the owner or operator is in compliance with all other applicable terms and conditions of the solid waste facilities permit and minimum standards adopted by the board.

(2) Any owner or operator of a solid waste facility who temporarily suspends operations shall remain subject to the closure and postclosure maintenance requirements of this division and to any other requirement imposed by federal law pertaining to the operation of a solid waste facility.

(3) The enforcement agency may impose any reasonable conditions relating to the maintenance of the solid waste facility, environmental monitoring, and periodic reporting during the period of temporary suspension. The board may also impose any reasonable conditions determined to be necessary to ensure compliance with applicable state standards.

Comment. Section 44004 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 44005 (amended). Encumbrance, sale, transfer or conveyance of facility or site

SEC. _____. Section 44005 of the Public Resources Code is amended to read:

44005. (a) Any owner or operator of a solid waste facility who plans to encumber, sell, transfer, or convey the ownership or operations of a solid waste facility or disposal site to a new owner or operator, shall notify the enforcement agency and the board, 45 days prior to the date of the anticipated transfer. The notification shall be in writing and shall include information as determined by the board, including any financial assurances, if applicable.

(b) The enforcement agency and the board shall review the notification documentation and any available records of enforcement actions taken against the proposed transferee, and shall determine, within 30 days of receipt, whether the facility will be operated in compliance with the terms and conditions of an approved permit and any other applicable requirements, including, but not limited to, the requirements of Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code. If the solid waste facility will not be operated in compliance with the terms and conditions of an approved permit, or any other applicable requirements of Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code, the new owner or operator shall be required to file an application for a revised or modified solid waste facilities permit.

(c) If the enforcement agency or the board determines that the facility will be operated in compliance with the terms and conditions of the existing permit, the enforcement agency may change the name of the owner or operator on the permit.

Comment. Section 44005 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 44203 (amended). Cooperative agreements

SEC. _____. Section 44203 of the Public Resources Code is amended to read:

44203. (a) The secretary may enter into any cooperative agreement which meets the requirements of this article.

(b) Each cooperative agreement shall include, but shall not be limited to, all requirements determined to be necessary to meet the requirements of subdivision (e) to do all of the following:

(1) Protect water quality, as determined by the State Water Resources Control Board or the appropriate California regional water quality control board.

(2) Protect air quality, as determined by the State Air Resources Board or the appropriate air pollution control officer.

(3) Provide for proper management of solid wastes, as determined necessary by the California Integrated Waste Management Board.

(4) In making these determinations, the state agencies shall consider any applicable federal environmental and public health and safety laws.

(c) A decision by the secretary whether to enter into a cooperative agreement shall be based on a good faith determination concerning whether a proposed cooperative agreement meets the requirements of this article. The secretary shall take this action within 130 days of a written request by the tribe that the secretary approve a draft cooperative agreement. At least 60 days prior to determining whether to enter into a cooperative agreement, the secretary shall provide notice, and make available for public review and comment, drafts of his or her proposed action and drafts of the findings and determinations that are required by this section. The secretary shall hold a public hearing in the affected area on the proposed action within the time period for taking that action, as specified in this section. Within 10 days after the close of the public review and comment period, the agencies shall complete the determinations required by this section and the secretary shall issue a final decision.

(d) The findings and determinations of the secretary and relevant agencies made pursuant to this section shall explain material differences between state laws and regulations and the proposed tribal or federal functionally equivalent provisions. The findings and determinations do not need to explain each difference between the state and tribal or federal requirements as long as they identify and evaluate whether the material differences meet the requirements of this article, including, but not limited to, providing at least as much protection for public health and safety and the environment as would the state requirements.

(e) Any cooperative agreement executed pursuant to this article shall provide for regulation of the solid waste facility through inclusion in the agreement of design, permitting, construction, siting, operation, monitoring, inspection, closure, postclosure, liability, enforcement, and other regulatory provisions applicable to a solid waste facility, or which relate to any environmental consequences that may be caused by facility construction or operation, that are functionally equivalent to all of the following:

(1) Article 4 (commencing with Section 13260) of Chapter 4 of, Chapter 5 (commencing with Section 13300) of, and Chapter 5.5 (commencing with Section 13370) of, Division 7 of the Water Code.

(2) Chapter 3 (commencing with Section 41700) of, Chapter 4 (commencing with Section 42300) of, and Chapter 5 (commencing with Section 42700) of, Part 4 of, and Part 6 (commencing with Section 44300) of, Division 26 of the Health and Safety Code.

(3) This division.

(4) All regulations adopted pursuant to the statutes specified in this section.

(5) Any other provision of state environmental, public health, and safety laws and regulations germane to the solid waste facility proposed by the tribe.

(f) The tribal organizational structures or other means of implementing the requirements specified in subdivision (e) are not required to be the same as the state organizational structures or means of implementing its system of regulation.

(g) Neither the approval of any cooperative agreement nor amendments to the agreement, nor any determination of sufficiency provided in Section 44205, shall constitute a "project" as defined in Section 21065 of the Environment Code and shall not be subject to review pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code).

(h) Each cooperative agreement shall provide for the incorporation of the standards and requirements germane to the protection of the environment, public health, and safety listed in subdivision (e), as enacted, or as those provisions may be amended after January 1, 1992, or after the effective date of any cooperative agreement, if those standards and requirements meet both of the following requirements:

(1) The standards and requirements do not discriminate against a tribe which has executed a cooperative agreement, or a lessee of the tribe, and are applicable to, or not more stringent than, other rules applicable to other similar or analogous facilities or operations outside Indian country.

(2) Adequate notice and opportunity for comment on the incorporation of new and amended standards or requirements are provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

Comment. Section 44203 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 44205 (amended). Review of draft tribal and federal permit

SEC. ____. Section 44205 of the Public Resources Code is amended to read:

44205. (a) Each cooperative agreement shall require the public agencies specified in subdivision (b) of Section 44203 to review any draft tribal permit and any applicable federal permit to determine whether it contains all conditions sufficient to do all of the following:

(1) Meet the functionally equivalent standards provided in the cooperative agreement, as required by subdivision (e) of Section 44203.

(2) Provide not less than the level of protection for public health, safety, and the environment that would have been the case if that state agency had issued the permit.

(3) Implement all feasible mitigation measures. For purposes of this paragraph, “feasible” has the same meaning as in Sections 21001, 21002.1, and 21004 of the Environment Code, and any regulations adopted pursuant to those sections.

(b) Each cooperative agreement shall provide that the tribal or federal permits issued for the solid waste facility meet the requirements of this section.

(c) The failure of a party to a cooperative agreement to meet the requirements of this section shall be determined to be an actionable breach of the cooperative agreement.

(d) The election by a party to a cooperative agreement to pursue a contractual remedy shall not limit the ability of a party to assert its respective claims of jurisdiction or sovereign immunity.

(e) Entering into a cooperative agreement shall not be a basis for denying any remedy to which a party is otherwise entitled.

(f) Within 10 days of issuance of a final federal permit or tribal permit, a copy of that permit shall be provided to the California Environmental Protection Agency and the tribe having jurisdiction over the facility.

Comment. Section 44205 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 44300 (amended). Permit denial

SEC. ____. Section 44300 of the Public Resources Code is amended to read:

44300. An enforcement agency may, after holding a public hearing in accordance with the procedures set forth in Section 44310, deny a solid waste facilities permit in any of the following cases:

(a) The application is incomplete or otherwise inadequate.

(b) The applicant has not complied with Division 13 3 (commencing with Section 21000) of the Environment Code.

(c) The applicant has failed to demonstrate that the facility will meet minimum regulatory standards.

(d) The application contains significant false or misleading information or significant misrepresentations.

(e) The agency determines the applicant has, during the previous three years, been convicted of, or been issued a final order for, one or more violations of this division, or regulations adopted pursuant to this division, or the terms and conditions of the permit, and the violation meets both of the following criteria:

(1) The violation demonstrates a chronic recurring pattern of noncompliance which has posed, or may pose, a significant risk to public health and safety or to the environment.

(2) The violation has not been corrected or reasonable progress toward correction has not been achieved.

Comment. Section 44300 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 71012 (amended). “Environmental permit” defined

SEC. _____. Section 71012 of the Public Resources Code is amended to read:

71012. “Environmental permit” means any license, certificate, registration, permit, or other form of authorization required by an environmental agency to engage in a particular activity. “Environmental permit” includes, but is not limited to, activities subject to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, if the activities are under the jurisdiction of an environmental agency. “Environmental permit” does not include any certification or decision pursuant to Division 13 3 (commencing with Section 21000) of the Environment Code.

Comment. Section 71012 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 71020 (amended). Designation of consolidated permit agency

SEC. _____. Section 71020 of the Public Resources Code is amended to read:

71020. (a) On or before January 1, 1995, the secretary shall establish an administrative process which may be used, at the request of a permit applicant for a project pursuant to Section 71021, for the designation of a consolidated permit agency for the project.

(b) That administrative process shall consist of the establishment of guidelines for designating the consolidated permit agency for the project. The guidelines shall be adopted as regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code. In those cases where an environmental agency is the lead agency for purposes of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, or Division 13 3 (commencing with Section 21000) of the Environment Code, that environmental agency shall be the consolidated permit agency. In other cases, the guidelines shall require that at least the following factors be considered in determining which environmental agency has the greatest overall jurisdiction over the project:

(1) The types of facilities or activities that make up the project.

(2) The types of public health and safety and environmental concerns that should be considered in issuing environmental permits for the project.

(3) The environmental medium that may be affected by the project, the extent of those potential effects, and the environmental protection measures that may be taken to prevent the occurrence of, or to mitigate, those potential effects.

(4) The regulatory activity that is of greatest importance in preventing or mitigating the effects that the project may have on public health and safety or the environment.

(5) The statutory and regulatory requirements that apply to the project and the complexity of those requirements.

(c) The secretary shall also establish a procedure for referring projects to the council for the designation of a consolidated permit agency in any of the following circumstances:

(1) Because of the nature of the project, the guidelines adopted pursuant to subdivision (a) do not provide clear guidance concerning which environmental agency should be designated the consolidated permit agency.

(2) The consolidated permit agency or a participating permit agency disagrees with the designation of the consolidated permit agency.

(3) The environmental agency designated as the consolidated permit agency under the guidelines declines the designation and participating permit agencies are not willing to accept designation as the consolidated permit agency.

Comment. Section 71020 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 71021 (amended). Request for designation of consolidated permit agency

SEC. ____ Section 71021 of the Public Resources Code is amended to read:

71021. (a) A permit applicant for a project may request the secretary to designate a consolidated permit agency to administer the processing and issuance of a consolidated permit for the project pursuant to this division. The secretary, in accordance with the guidelines and procedures adopted pursuant to Section 71020, shall, within 30 days of the date that the request is received, either designate a consolidated permit agency for the project or refer the designation to the council.

(b) A permit applicant who requests the designation of a consolidated permit agency shall provide the secretary with a description of the project, a preliminary list of the environmental permits that the project may require, the identity of any public agency that has been designated the lead agency for the project pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code or Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, and the identity of the participating permit agencies. The secretary may request any information from the permit applicant that is necessary to make the designation under subdivision (a), and may convene a scoping meeting of the likely consolidated permit agency and participating permit agencies in order to make that designation.

(c) The consolidated permit agency shall serve as the main point of contact for the permit applicant with regard to the processing of the consolidated permit for the project and shall manage the procedural aspects of that processing consistent with existing laws governing the consolidated permit agency and participating permit agencies, and with the procedures agreed to by those agencies in accordance with Section 71022. In carrying out these responsibilities, the consolidated permit agency shall ensure that the permit applicant has all the information needed to apply for all the component environmental permits that are incorporated in the consolidated permit for the project, coordinate the review of those environmental permits by the respective participating permit agencies, ensure that timely environmental permit decisions are made by the participating permit agencies, and assist in resolving any conflict or inconsistency among the environmental permit requirements and conditions that are to be imposed by the participating permit agencies with regard to the project.

(d) This division shall not be construed to limit or abridge the powers and duties granted to a participating permit agency pursuant to the law that authorizes or requires the agency to issue an environmental permit for a project. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component environmental permit that is within its scope of its responsibility, including, but not limited to, the determination of environmental permit application completeness, environmental permit approval or approval with conditions, or environmental permit denial. The consolidated permit agency may not substitute its judgment for that of a participating permit agency on any such nonprocedural matters.

Comment. Section 71021 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Res. Code § 71035.6 (amended). Determination of completeness and adequacy

SEC. _____. Section 71035.6 of the Public Resources Code is amended to read:

71035.6. (a) Environmental agencies with jurisdiction over portions of the compliance plan shall determine if a compliance plan is complete and adequate, in accordance with this section, as it relates to their particular area of jurisdiction.

(b) A determination of completeness and adequacy shall be based solely upon whether there is compliance with the rules, regulations, ordinances, and statutes governing the environmental agency. As part of the determination of adequacy, an environmental agency may require additional conditions necessary, in its judgment, to make the facility compliance plan consistent with its rules, regulations, ordinances, and statutes.

(c) If an environmental agency possessed discretionary authority over a facility prior to the enactment of this chapter, then the determination of completeness and adequacy shall be a discretionary action for purposes of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code). If, subsequent to the enactment of this chapter, an environmental agency, by regulation, eliminates its discretionary authority over a facility, then the determination of completeness and adequacy shall not be a discretionary action for purposes of the California Environmental Quality Act.

(d) An environmental agency shall transmit its determination to the secretary within 45 days from the date of receipt of the facility compliance plan.

(e)(1) If an environmental agency determines that a facility compliance plan is not complete and adequate, the agency shall, within the 45-day period specified in subdivision (d), transmit that determination, in writing, to the project applicant. The agency's determination shall specify those parts of the plan that are incomplete or inadequate and shall indicate the manner in which they can be made complete and adequate, including a list and thorough description of the specific information needed to make the plan complete and adequate. The project applicant shall submit materials to the environmental agency in response to the list and description.

(2) Not later than 30 calendar days after receipt of the submitted materials, the environmental agency shall determine in writing whether they are complete and adequate and shall immediately transmit that determination to the applicant. If the written determination is not made within the 30-day period, the application together with the submitted materials shall be deemed complete and adequate for purposes of this chapter.

(3) If the plan together with the submitted materials are determined not to be complete and adequate pursuant to paragraph (2), the environmental agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. Notwithstanding a decision pursuant to paragraph (2) that the application and submitted materials are not complete and adequate, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete and adequate for the purposes of this chapter.

(4) Nothing in this section precludes an applicant and an environmental agency from mutually agreeing to an extension of any time limit provided by this section.

(f) All applicable individual environmental permits for the project shall be deemed to have been issued upon receipt of a complete and adequate facility compliance plan, as determined by the secretary, after receiving the determinations of completeness and adequacy from environmental agencies pursuant to subdivision (a). In determining completeness and adequacy, the secretary shall not substitute his or her judgment for that of the applicable environmental agencies.

Comment. Section 71035.6 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

PUBLIC UTILITIES CODE

Pub. Util. Code § 21632 (amended). Acquisition of existing airports and air navigation facilities

SEC. ____ . Section 21632 of the Public Utilities Code is amended to read:

21632. (a) The department may also acquire existing airports and air navigation facilities, but it shall not acquire any airport or air navigation facility owned or controlled by a political subdivision of this or any other state without the consent of the political subdivision.

(b) Whenever an airport owned or operated by the United States in this state ceases to be so owned or operated, the department, in consultation with local and regional transportation planning agencies, shall evaluate the present and future need for the airport in the state's public-use airport system, including the need for both the transportation of people and goods. This evaluation shall be completed prior to December 31, 1990, or within one year of the federal announcement setting the date of closure for any airport, if the latter action occurs after January 1, 1990. The purpose of the evaluation is to determine aviation needs and does not eliminate any requirement of the California Environmental Quality Act, Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(c) Prior to finalizing the evaluation, the department shall submit a copy of its report to the commission for review and comment. The commission shall complete its review and forward any comments to the department not later than 45 days after receiving the evaluation.

(d) Upon completion of its evaluation, the department shall make a recommendation to the Legislature, the commission, the California Commission on Aviation and Airports, affected local agencies, and the appropriate federal agency for the airport's ownership and type of operation as a public-use airport, if the department determines that the airport would be of significant benefit to the state's airport system. It is the intent of the Legislature that the department, in making its recommendation, give priority for ownership and operation of these public-use airports to a local political subdivision or subdivisions acting jointly.

(e) Notwithstanding Section 21606, if a political subdivision or subdivisions acting jointly notify the department of their intentions to prepare a reuse plan for the airport, and simultaneously apply to the Federal Aviation Administration for a federal grant to develop an airport master plan for the airport, the department shall not make its recommendation pursuant to subdivision (d). If the department's evaluation determines that the airport would be of significant benefit to the state's airport system, and the political subdivision or subdivisions acting jointly fail to convert the federal airport to a civil public-use airport in accordance with the department's evaluation within five years of notification to the department, or fail to evidence substantial progress toward that purpose as determined by the department, then the department shall take action in accordance with subdivision (f).

(f) If the department determines the airport is of present or future benefit to the state's public-use airport system, and no political subdivision applies to the appropriate federal agency to acquire or operate the airport, or has notified the department of its intention to prepare a reuse plan for the airport and thereafter fails to act upon its application pursuant to subdivision (e), the department may, subject to subdivision (g), assist in the formation of a public entity to own and operate the airport which shall be representative of political subdivisions in the area which surrounds and is served by the airport, as determined by the department. If established, the owning and operating entity may, subject to subdivision (g), prepare and submit an application to the appropriate federal agency to acquire or operate, or acquire and operate, the airport as a public airport.

(g) Notwithstanding subdivision (f), if any political subdivision has previously applied to the appropriate federal agency to acquire and operate the airport as a public airport, has completed all required environmental and fiscal evaluations, and subsequently withdrew its application prior to December 31, 1988, the department shall not file any application to acquire or operate the airport or assist in the formation of a public entity to own and operate the airport.

Comment. Section 21632 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Util. Code § 21679 (amended). Court proceedings on zoning

SEC. _____. Section 21679 of the Public Utilities Code is amended to read:

21679. (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, which directly affects the use of land within one mile of the boundary of a public airport within the county.

(b) The court may issue an injunction which postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency which took the action does one of the following:

(1) In the case of an action which is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.

(2) In the case of an action which is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.

(3) Rescinds the action.

(4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2) of this subdivision, whichever is applicable.

(c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency which took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use plan as provided in Section 21675.

(d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the ~~Public Resources~~ Environment Code, whichever is longer.

(e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.

(f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

Comment. Section 21679 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Util. Code § 21679.5 (amended). Moratorium on proceedings

SEC. _____. Section 21679.5 of the Public Utilities Code is amended to read:

21679.5. (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan.

(b) If a commission has been prevented from adopting the comprehensive land use plan by June 30, 1991, or if the adopted plan could not become effective, because of a lawsuit involving the adoption of the plan, the June 30, 1991, date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

(c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use plan on or before June 30, 1991, the action shall be dismissed. If the

commission or other designated body does not adopt an airport land use plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.

(d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the ~~Public Resources~~ Environment Code, whichever date is later.

Comment. Section 21679.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Util. Code § 99624 (amended). Alameda-San Pedro branch rail line

SEC. _____. Section 99624 of the Public Utilities Code is amended to read:

99624. (a) Eighty million dollars (\$80,000,000) to the department for grade separations along the Alameda-San Pedro branch rail line connecting the Los Angeles and Long Beach Harbors with downtown Los Angeles and paralleling Alameda Street, to alleviate vehicle traffic congestion, conserve energy, reduce air pollution in the area, and facilitate the more efficient and expeditious shipment of freight to and from the Los Angeles and Long Beach Harbors. The current owner of the Alameda-San Pedro branch line may, at its option, continue to own and operate the line and related right-of-way.

(b) The allocation and granting of funds pursuant to this Section shall be exempt from Sections 99653 and 99663. The allocation and granting of funds pursuant to this section shall also be exempt from subdivision (c) of Section 1202, and Sections 1202.5 and 99317.8 of the Public Utilities Code, and Sections 2450 to 2461, inclusive, of the Streets and Highways Code if the affected railroad corporation contributes ten (10) percent of the costs of constructing the grade separations funded pursuant to this section. Notwithstanding any provision of this code or the Streets and Highways Code, no city on the Alameda-San Pedro branch line shall be assessed costs for the grade separations. The department is the sole state agency responsible for designing, determining priorities, and implementing the construction of those grade separations. The department shall coordinate its planning with any joint powers agency established to represent affected cities, local agencies, or commissions. The department shall further coordinate and cooperate with any such joint powers agency so that the expenditure of any federal, local, and private funds including those for tracks, switching, and interconnection improvements, and the possible construction of a proposed Alameda Street truck corridor is accomplished in an efficient and well-planned manner.

(c) For the purposes of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), grade separations funded pursuant to this section and all related track and switching improvements and rail interconnections shall be considered to be one project.

Comment. Section 99624 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pub. Util. Code § 99686 (amended). Application of CEQA

SEC. _____. Section 99686 of the Public Utilities Code is amended to read:

99686. Every expenditure made pursuant to this part shall be made in compliance with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 99686 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

REVENUE AND TAXATION CODE

Rev. & Tax. Code § 17053.66 (amended). Credit against net tax

SEC. ____ . Section 17053.66 of the Revenue and Taxation Code is amended to read:

17053.66. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2000, there shall be allowed, as determined by the Department of Fish and Game, a credit against the "net tax," as defined in Section 17039. The credit amount shall be equal to the lesser of 10 percent of the qualified costs paid or incurred by the taxpayer or partnership for salmon and steelhead trout habitat restoration and improvement projects or an amount determined in subparagraph (B) of paragraph (2) of subdivision (f). The credit allowed by this section shall be claimed on the return for the taxable year in which the expense for the habitat restoration or improvement project was paid or incurred.

(b) The taxpayer or partnership shall be eligible to claim the credit only after application to and certification by the Department of Fish and Game that all of the following conditions are met:

(1) The salmon or steelhead trout habitat restoration or improvement project meets the objectives of the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Chapter 8 (commencing with Section 6900) of Part 1 of Division 6 of the Fish and Game Code) and would aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank conditions, improvement of land use practices, or changes in streamflow operations.

(2) The work to be undertaken is not otherwise required to be carried out pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code), for mitigation of negative impacts to the environment caused by timber operations or required for mitigation of negative impacts on fish and wildlife habitat caused by a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(c)(1) Qualified costs are those costs paid or incurred by the taxpayer or partnership which are directly related to labor and materials which aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank conditions, improvement of land use practices, or changes in streamflow operations.

(2) Qualified costs do not include costs paid or incurred with respect to any of the following:

(A) Construction of office, storage, garage, or maintenance buildings.

(B) Drilling wells or installation of pumping equipment.

(C) Construction of permanent hatchery facilities, including raceways, water systems, or bird enclosures.

(D) Construction of permanent surface roadways or bridges.

(E) Any project requiring engineered design or certification by a registered engineer.

(3) Qualified costs shall be no greater than prevailing costs for similar work completed in the area where the project is proposed, and the project design and implementation shall follow Department of Fish and Game guidelines.

(d) For purposes of computing the credit provided by this section, the cost of any salmon or steelhead trout habitat restoration or improvement project eligible for the credit shall be reduced by the amount of any grant or cost-share payment provided by a public entity for that project. The Department of Fish and Game shall certify the amount of funding, if any, provided by the Department of Fish and Game for the project.

(e) The taxpayer or partnership shall do all of the following:

(1)(A) Submit an application for the restoration tax credit with a description of the proposed project in a format acceptable to the Department of Fish and Game.

(B) The application for the restoration tax credit shall include all information that is required by the Department of Fish and Game, pursuant to subdivision (b), as well as, but not limited to, all of the following:

(i) A project description of the habitat restoration or improvement work to be accomplished, including the location of the project.

(ii) If other than the project applicant, the name of the owner of the land where the project is to be carried out.

(iii) The estimated qualified cost to accomplish the project, as well as the project's overall estimated cost.

(iv) A statement that a reasonable attempt will be made to hire unemployed persons previously employed in the commercial fishing or forest products industries for implementation of the project.

(v) The tax identification number of each taxpayer allowed the credit.

(2) Obtain from the Department of Fish and Game certification that the project is approved, and the amount of credit allocation authorized, which shall not exceed the maximum amount of credit allocation set forth in subdivision (k).

(3) Notify the Department of Fish and Game in a form and manner specified by the department that the habitat restoration or improvement work was actually completed and the amount of qualified costs that were paid.

(4) Provide access, subject to prior notification by the Department of Fish and Game staff and permission by the taxpayer, to proposed project sites by the Department of Fish and Game staff for preproject and postproject evaluation, for project monitoring during all phases of implementation, and for verification that projects have been completed in accordance with department guidelines and recommendations. The Department of Fish and Game shall not include a project on its list of approved projects eligible for the tax credit that is submitted to the Franchise Tax Board unless these conditions are met.

(5) Retain a copy of and make the certification referred to in paragraph (3) of subdivision (f) available to the Franchise Tax Board upon demand.

(6) Calculate the credit amount, equal to the lesser of 10 percent of the taxpayer's actual qualified costs or the amount of credit allocation authorized to the taxpayer, as determined by the Department of Fish and Game.

(7) A partnership shall disclose in its partnership return for the taxable year all of the following:

(A) The name of each partner who received a distributive share of the credit.

(B) Each partner's social security number or identification number.

(C) Each partner's distributive share of the credit.

(f) The Department of Fish and Game shall do all of the following:

(1) Accept and review applications to determine if projects meet the conditions specified in subdivision (b).

(2) After all applications have been received for a calendar year, determine if 10 percent of the estimated costs for all approved projects exceeds the annual credit allocation. If the annual amount of credit allocation is exceeded, the amount of each taxpayer's credit allocation shall be calculated as follows:

(A) Divide the annual amount of credit allocation set forth in subdivision (j) by the total estimated qualified costs for all approved projects.

(B) Multiply each approved project's estimated qualified cost by the quotient of the calculation in subparagraph (A).

(C) If the annual amount of credit allocation is not exceeded, the amount of each credit allocation shall be 10 percent of the estimated qualified costs.

(3) Issue certificates to each taxpayer or partnership with an approved project that specifies the amount of credit allocated to the project.

(4) Provide an annual listing to the Franchise Tax Board (preferably on magnetic tape or other machine-readable form, and in a form and manner agreed upon by the Franchise Tax Board and the Department of Fish and Game) of the taxpayers or partnerships who were issued the certification, their respective tax identification numbers, and the allowable amount of the credit allocated to each taxpayer or partnership.

(g) The Department of Fish and Game shall have the authority to establish annual timeframes for the receipt of applications.

(h) The taxpayers' social security numbers or identification numbers obtained through the tax credit application and certification process shall be used exclusively for state tax administrative purposes.

(i) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(j) For purposes of this section, the annual amount of credit allocation means the aggregate amount of tax credits which may be granted pursuant to this section and Section 23666 shall not exceed five hundred thousand dollars (\$500,000) per year. The Department of Fish and Game shall not authorize any credit which would cause the total amount of credits authorized with respect to any calendar year under this section and Section 23666 to exceed five hundred thousand dollars (\$500,000).

(k) The maximum credit amount which the Department of Fish and Game may authorize with respect to any taxable year to any taxpayer or partnership is fifty thousand dollars (\$50,000).

(l) In the case of a partnership, the credit limitation specified in subdivision (k) shall apply with respect to the partnership and with respect to each partner.

(m) This section shall remain in effect only until December 1, 2000, and as of that date is repealed.

Comment. Section 17053.66 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Rev. & Tax. Code § 23666 (amended). Credit against net tax

SEC. ____ . Section 23666 of the Revenue and Taxation Code is amended to read:

23666. (a) For each income year beginning on or after January 1, 1995, and before January 1, 2000, there shall be allowed, as determined by the Department of Fish and Game, a credit against the “tax,” as defined in Section 23036. The credit amount shall be equal to the lesser of 10 percent of the qualified costs paid or incurred by the taxpayer for salmon and steelhead trout habitat restoration and improvement projects or an amount determined in subparagraph (B) of paragraph (2) of subdivision (f). The credit allowed by this section shall be claimed on the return for the income year in which the expense for the habitat restoration or improvement project was paid or incurred.

(b) A taxpayer shall be eligible to claim the credit only after application to and certification by the Department of Fish and Game that all of the following conditions are met:

(1) The salmon or steelhead trout habitat restoration or improvement project meets the objectives of the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Chapter 8 (commencing with Section 6900) of Part 1 of Division 6 of the Fish and Game Code) and would aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank conditions, improvement of land use practices, or changes in streamflow operations.

(2) The work to be undertaken is not otherwise required to be carried out pursuant to the Z’berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code), for mitigation of negative impacts to the environment caused by timber operations or required for mitigation of negative impacts on fish and wildlife habitat caused by a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(c)(1) Qualified costs are those costs paid or incurred by the taxpayer which are directly related to labor and materials which aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank conditions, improvement of land use practices, or changes in streamflow operations.

(2) Qualified costs do not include costs paid or incurred with respect to any of the following:

(A) Construction of office, storage, garage, or maintenance buildings.

(B) Drilling wells or installation of pumping equipment.

(C) Construction of permanent hatchery facilities, including raceways, water systems, or bird enclosures.

(D) Construction of permanent surface roadways or bridges.

(E) Any project requiring engineered design or certification by a registered engineer.

(3) Qualified costs shall be no greater than prevailing costs for similar work completed in the area where the project is proposed, and the project design and implementation shall follow the Department of Fish and Game guidelines.

(d) For purposes of computing the credit provided by this section, the cost of any salmon or steelhead trout habitat restoration or improvement project eligible for the credit shall be reduced by the amount of any grant or cost-share payment provided by a public entity for that project. The Department of Fish and Game shall certify the amount of funding, if any, provided by the Department of Fish and Game for the project.

(e) The taxpayer shall do all of the following:

(1)(A) Submit an application for the restoration tax credit with a description of the proposed project in a format acceptable to the Department of Fish and Game.

(B) The application for the restoration tax credit shall include all information that is required by the Department of Fish and Game, pursuant to subdivision (b), as well as, but not limited to, all of the following:

(i) A project description of the habitat restoration or improvement work to be accomplished, including the location of the project.

(ii) If other than the project applicant, the name of the owner of the land where the project is to be carried out.

(iii) The estimated qualified cost to accomplish the project, as well as the project's overall estimated cost.

(iv) A statement that a reasonable attempt will be made to hire unemployed persons previously employed in the commercial fishing or forest products industries for implementation of the project.

The tax identification number of each taxpayer allowed the credit.

(2) Obtain from the Department of Fish and Game certification that the project is approved, and the amount of credit allocation authorized, which shall not exceed the maximum amount of credit allocation set forth in subdivision (k).

(3) Notify the Department of Fish and Game in a form and manner specified by the department that the habitat restoration or improvement work was actually completed and the amount of qualified costs that were paid.

(4) Provide access, subject to prior notification by the Department of Fish and Game staff and permission by the taxpayer, to proposed project sites by the Department of Fish and Game staff for preproject and postproject evaluation, for project monitoring during all phases of implementation, and for verification that projects have been completed in accordance with department guidelines and recommendations. The Department of Fish and Game shall not include a project on its list of approved projects eligible for the tax credit that is submitted to the Franchise Tax Board unless these conditions are met.

(5) Retain a copy of and make the certification referred to in paragraph (3) of subdivision (f) available to the Franchise Tax Board upon demand.

(6) Calculate the credit amount, equal to the lesser of 10 percent of the taxpayer's actual qualified costs or the amount of credit allocation authorized to the taxpayer, as determined by the Department of Fish and Game.

(f) The Department of Fish and Game shall do all of the following:

(1) Accept and review applications to determine if projects meet the conditions specified in subdivision (b).

(2) After all applications have been received for a calendar year, determine if 10 percent of the estimated costs for all approved projects exceeds the annual credit allocation. If the annual amount of credit allocation is exceeded, the amount of each taxpayer's credit allocation shall be calculated as follows:

(A) Divide the annual amount of credit allocation set forth in subdivision (j) by the total estimated qualified costs for all approved projects.

(B) Multiply each approved project's estimated qualified cost by the quotient of the calculation in subparagraph (A).

(C) If the annual amount of credit allocation is not exceeded, the amount of each credit allocation shall be 10 percent of the estimated qualified costs.

(3) Issue certificates to each taxpayer or partnership with an approved project that specifies the amount of credit allocated to the project.

(4) Provide an annual listing to the Franchise Tax Board (preferably on magnetic tape or other machine-readable form, and in a form and manner agreed upon by the Franchise Tax Board and the Department of Fish and Game) of the taxpayers or partnerships who were issued the certification, their respective tax identification numbers, and the allowable amount of the credit allocated to each taxpayer or partnership.

(g) The Department of Fish and Game shall have the authority to establish annual timeframes for the receipt of applications.

(h) The taxpayers' identification numbers obtained through the tax credit application and certification process shall be used exclusively for state tax administrative purposes.

(i) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(j) For purposes of this section, the annual amount of credit allocation means the aggregate amount of tax credits which may be granted pursuant to this section and Section 17053.66 shall not exceed five hundred thousand dollars (\$500,000) per year. The Department of Fish and Game shall not authorize any credit which would cause the total amount of credits authorized with respect to any calendar year under this section and Section 17053.66 to exceed five hundred thousand dollars (\$500,000).

(k) The maximum credit amount which the Department of Fish and Game may authorize with respect to any income year to any taxpayer or partnership is fifty thousand dollars (\$50,000).

(l) In the case of a partnership, the credit limitation specified in subdivision (k) shall apply with respect to the partnership and with respect to each partner.

(m) This section shall remain in effect only until December 1, 2000, and as of that date is repealed.

Comment. Section 23666 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

STREETS AND HIGHWAYS CODE

Sts. & Hy. Code § 180.2 (amended). Application of CEQA

SEC. _____. Section 180.2 of the Streets and Highways Code is amended to read:

180.2. The following projects under this article shall be considered to be activities under paragraph (4) of subdivision (b) of Section 21080 of the ~~Public Resources~~ Environment Code:

(a) The structural modification of an existing highway structure or toll bridge.

(b) The replacement of a highway structure or toll bridge within, or immediately adjacent to, an existing right-of-way.

Comment. Section 180.2 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Sts. & Hy. Code § 229.3 (amended). Application of CEQA

SEC. _____. Section 229.3 of the Streets and Highways Code is amended to read:

229.3. Any project subject to this article is a project for purposes of paragraph (3) of subdivision (b) of Section 21080 of the ~~Public Resources~~ Environment Code.

Comment. Section 229.3 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Sts. & Hy. Code § 671.5 (amended). Encroachment permits

SEC. _____. Section 671.5 of the Streets and Highways Code is amended to read:

671.5. (a) The department shall either approve or deny an application from an applicant for an encroachment permit within 60 days of receiving a completed application, as determined by the department. An application for an encroachment permit is complete when all other statutory requirements, including the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), have been complied with. The department's failure to notify the applicant within that 60-day period that the permit is denied shall be deemed to constitute approval of the permit. Thereafter, upon notifying the department, the applicant may act in accordance with its permit application, as if the permit had been approved.

(b) If the department denies an application for an encroachment permit, it shall, at the time of notifying the applicant of the denial, furnish to the applicant a detailed explanation of the reason for the denial.

(c) The department shall adopt regulations prescribing procedures for an applicant to appeal to the director for a final determination of the department's denial of an application. The appeal shall be made in writing to the director. There shall be a final written determination by the director within 60 calendar days after receipt of the applicant's written appeal. The adopted regulations shall require the appellant to pay to the department a fee of not more than 50 percent of the estimated administrative cost to the department of conducting the appeal.

(d) Nothing in this section precludes an applicant and the department from mutually agreeing to an extension of any time limit provided by this section.

Comment. Section 671.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

WATER CODE

Water Code § 1013 (amended). Imperial Irrigation District

SEC. _____. Section 1013 of the Water Code is amended to read:

1013. The Imperial Irrigation District, acting under a contract with the United States for diversion and use of Colorado River water or pursuant to the Constitution or to this chapter, or complying with an order of the Secretary of the Interior, a court, or the board, to reduce through conservation measures, the volume of the flow of water directly or indirectly into the Salton Sea, shall not be held liable for any effects to the Salton Sea or its bordering area resulting from the conservation measures.

This section shall not be construed to exempt the Imperial Irrigation District from any requirements established under the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 1013 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 1029 (amended). Application of CEQA

SEC. _____. Section 1029 of the Water Code is amended to read:

1029. Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code applies to water lease agreements authorized by this chapter. For purposes of that division, the lessor is the lead agency, except that if the lessor is a private party and the lessee is a water district, the lessee is the lead agency. If both the lessor and the lessee are private parties, the state board is the lead agency.

Comment. Section 1029 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 1275 (amended). Additional information

SEC. _____. Section 1275 of the Water Code is amended to read:

1275. After an application has been perfected, the board may request additional information reasonably necessary to clarify, amplify, correct, or otherwise supplement the information required to be submitted under Article 2 (commencing with Section 1260) or Article 3 (commencing with Section 1270). The board shall provide a reasonable period for submitting the information. The additional information may include, but is not limited to, any of the following:

- (a) Information needed to demonstrate that unappropriated water is available for appropriation.
- (b) Information needed to comply, or demonstrate compliance with, any applicable requirements of the Fish and Game Code or the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).
- (c) Information needed to comply with Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 1275 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 1335 (amended). Failure to provide information

SEC. _____. Section 1335 of the Water Code is amended to read:

1335. (a) The board may cancel a protest or application for failure to provide information requested by the board under this article within the period provided.

(b) Except as provided in subdivisions (c) and (d), a protest shall not be canceled for failure to submit information not in the possession or under the control of the protestant if the protest is in compliance with Section 1331 and the applicant is or could be required to submit the information under Section 1260 or 1275.

(c) If a protest is based on interference with a prior right, the board may cancel the protest if the protestant fails to submit any of the following information requested by the board:

(1) Information that the protestant is required to submit to the board to comply with Part 5.1 (commencing with Section 5100) during any period after the protest is filed.

(2) Information that is reasonably necessary to determine if the protestant has a valid water right.

(3) Information concerning the protestant's historical, current, or proposed future diversion and use of water that is reasonably necessary to determine if the proposed appropriation will result in injury to the protestant's exercise of its water right.

(d) If the protest is based on an allegation that the proposed appropriation would not be in the public interest, would adversely affect public trust uses, or would have adverse environmental impact, the board may cancel the protest for failure to submit information requested by the board if the board determines both of the following:

(1) The public review period has expired for any draft environmental document or negative declaration required to be circulated for public review and comment pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(2) In the absence of the requested information, there is no substantial evidence in light of the whole record to support the allegation.

Comment. Section 1335 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 1729 (amended). CEQA exemption

SEC. _____. Section 1729 of the Water Code is amended to read:

1729. A proposed temporary change under this article shall be exempt from the requirements of Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 1729 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 8730.1 (amended). Board action on applications

SEC. _____. Section 8730.1 of the Water Code is amended to read:

8730.1. The board shall acknowledge the receipt of all applications in writing within 10 days of receipt. All applications shall be acted upon within 90 days of receipt, except that applications subject to the provisions of Division 43 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code shall be acted upon within 180 days of receipt. Applicants may waive the requirement that applications be acted upon within such period.

This section shall not apply to emergency permits.

Comment. Section 8730.1 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 10652 (amended). Application of CEQA

SEC. _____. Section 10652 of the Water Code is amended to read:

10652. The California Environmental Quality Act (Division 43 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) does not apply to the preparation and adoption of plans pursuant to this part or to the implementation of actions taken pursuant to Section 10632. Nothing in this part shall be interpreted as exempting from the California Environmental Quality Act any project that would significantly affect water supplies for fish and wildlife, or any project for implementation of the plan, other than projects implementing Section 10632, or any project for expanded or additional water supplies.

Comment. Section 10652 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 10851 (amended). Application of CEQA

SEC. _____. Section 10851 of the Water Code is amended to read:

10851. The California Environmental Quality Act (Division 43 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) does not apply to the preparation and adoption of plans prepared and adopted under this part. Nothing in this part exempts projects for implementation of the plan or for expanded or additional water supplies from the California Environmental Quality Act.

Comment. Section 10851 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 10910 (amended). Environmental impact reports

SEC. _____. Section 10910 of the Water Code is amended to read:

10910. (a) Any city or county that determines that an environmental impact report is required in connection with a project, as defined in Section 10913, shall comply with this part if, as part of the approval of the project, either of the following is required:

(1) The adoption of a specific plan, if the city or county has not previously complied with this part for the project in question.

(2) An amendment to, or revision of, the land use element of a general plan, or a specific plan, that will result in a net increase in the stated population density or building intensity to provide for additional development.

(b) Notwithstanding subdivision (a), only a project that will result in a net increase in the stated population density or building intensity that has been identified in connection with the revision of any

part of a general plan is subject to the requirements imposed by this part, if the project has not previously complied with this part.

(c) The city or county shall, at the time that it submits a notice of preparation pursuant to Section 21080.4 of the ~~Public Resources~~ Environment Code, identify any water system that is, or may become, a public water system, as defined in Section 10912, that may supply water for the project.

(d) The city or county, at the time it submits a notice of preparation, shall request each public water system identified pursuant to subdivision (c) to assess whether the projected water demand associated with a proposed project described in subdivision (a) or (b) was included as part of the most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610). As part of that assessment, the public water system shall indicate whether its total projected water supplies available during normal, single-dry, and multiple-dry water years included in the 20-year projection contained in the urban water management plan will meet the projected water demand associated with the proposed project, in addition to the public water system's existing and planned future uses.

(e) The governing body of each public water system shall approve the assessment prepared pursuant to subdivision (d), at a regular or special meeting and submit the assessment to the city or county not later than 30 days after the date on which the request was received.

(f) If the public water system that receives a request pursuant to subdivision (d) fails to submit its assessment to the city or county within the 30 days provided in subdivision (e), it shall be assumed, without a request for a specific extension of time, that the public water system has no information to submit.

Comment. Section 10910 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 10911 (amended). Plan for additional water supplies

SEC. ____ . Section 10911 of the Water Code is amended to read:

10911. (a) If, as a result of its assessment, the public water system concludes that its water supplies are, or will be, insufficient, the public water system shall provide to the city or county its plans for acquiring additional water supplies, setting forth the measures that are being undertaken to acquire and develop those water supplies. Those plans may include, but are not limited to, information concerning all of the following:

(1) The estimated total costs, and the proposed method of financing the costs, associated with acquiring the additional water supplies.

(2) All federal, state, and local permits, approvals, or entitlements that are anticipated to be required in order to acquire and develop the additional water supplies.

(3) Based on the considerations set forth in paragraphs (1) and (2), the estimated timeframes within which the public water system expects to be able to acquire additional water supplies.

(b) The lead agency shall include in the environmental impact report the water supply assessment provided to the lead agency by the public water system pursuant to Section 10910, and any information provided pursuant to subdivision (a), except that the assessment and information shall not exceed 10 standard typewritten pages in length unless the lead agency determines that additional information is appropriate.

(c) The lead agency may include in the environmental impact report an evaluation of any information included in the environmental impact report provided pursuant to subdivision (b). The lead agency shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the proposed project, in addition to existing and planned future uses. If the lead agency determines that water supplies will not be sufficient, the lead agency shall include that determination in its findings pursuant to Section 21081 of the ~~Public Resources~~ Environment Code.

Comment. Section 10911 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 12669 (amended). Fresno County Stream Group Flood Control Project

SEC. _____. Section 12669 of the Water Code is amended to read:

12669. The plan of improvement for flood control and other purposes on the Fresno County Stream Group identified as the Redbank-Fancher Creeks Flood Control Project, including the Redbank Creek Detention Basin, is hereby adopted and authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 98-147, at an estimated cost to the state of such sum as may be appropriated for state cooperation by the Legislature upon recommendation and advice of the department or Reclamation Board, except that no nonflood control application of water may occur within the Redbank Creek Detention Basin except for landscape irrigation or dust control. The preconstruction environmental assessment by the United States Army Corps of Engineers shall include the conduct of field permeability tests and consideration of the recommendations set forth in the "Evaluation Of Impacts On The THAN Site By The Proposed Redbank Creek Flood Detention Basin," 1988, of the State Department of Health Services, Toxic Substances Control Division. Basin design criteria and operational procedures shall include, but not be limited to, the detailed post excavation soils mapping, installation and monitoring of observation wells, and creation of a contingency fund, as indicated by the environmental assessment and as required for compliance with the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources Environment Code~~). If state bond act moneys are available for flood control purposes, the Legislature may appropriate those moneys for this project. This authorization shall not be deemed to confer preference on this project over the needs of other statewide programs in the appropriation of available funds. Funds shall be appropriated pursuant to this authorization only upon the act of Congress adopting and authorizing the project as substantially described in House Document Numbered 98-147. The Legislature affirms the topographical and hydrological characteristics of the Fresno County Stream Group for which provision for participation in reservoirs has been made in Section 12868 and determines that the Redbank-Fancher Creeks Flood Control Project is a project on the Fresno County Stream Group, as defined and excepted in Section 12826. The department or Reclamation Board may loan the local agency the funds necessary to pay the local portion of the costs of the lands, easements, and rights-of-way, less the credit provided by Section 12585.3. The rate of interest on the loan shall be the current rate for the Pooled Money Investment Account. The department or Reclamation Board may pay 50 percent of the nonfederal capital costs of the recreation and fish and wildlife enhancement features of the project.

Comment. Section 12669 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 12994 (amended). Emergency levee work

SEC. _____. Section 12994 of the Water Code is amended to read:

12994. (a) The Legislature finds and declares all of the following:

(1) The CALFED Bay-Delta Program has identified as a core action the need for emergency levee management planning for delta levees to improve system reliability.

(2) Even with active levee maintenance, the threat of delta levee failures from earthquake, flood, or poor levee foundation, will continue to exist.

(3) Because of this threat of failure, and the potential need to mobilize people and equipment in an emergency to protect delta levees and public benefits, the department needs authority that will enable it to act quickly.

(b) The department may do all of the following:

(1) In an emergency, as defined by Section 21060.3 of the ~~Public Resources Environment Code~~, that requires immediate levee work to protect public benefits in the delta, the department may use funds pursuant to this part without prior approval of a plan by the board or the Department of Fish and Game, in which case the requirements of Sections 12987 and 12314, and the memorandum of understanding pursuant to Section 12307, shall be carried out as soon as possible.

(A) The amount of funds that may be expended each year on emergency levee work under this section shall not be greater than two hundred thousand dollars (\$200,000) and the amount that may

be expended per emergency levee site shall not be greater than fifty thousand dollars (\$50,000). The local agency shall fund 25 percent of the total costs of the emergency repair at a site or shall fund an appropriate share of the costs as approved by the board and based upon information of the local agency's ability to pay for the repairs.

(B) Department contracts executed for emergency levee work under this section shall be exempted from Department of General Services approval required under the Public Contract Code.

(C) As soon as as feasible after the emergency repair, the department shall submit a report to the board describing the levee work, costs incurred, and plans for future work at the site, including any necessary mitigation.

(D) This section is intended to supplement emergency services provided by the state or the United States. Nothing in this section overrides or supersedes the authority of the Director of the Office of Emergency Services under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the Natural Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of Division 1 of Title 2 of the Government Code).

(2) Prepare and submit to the board for adoption a delta emergency response plan for levee failures. The plan is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The plan may include recommendations of the multiagency response team established pursuant to paragraph (3) and may include, but not be limited to, the following:

(A) Standardized contracts for emergency levee work to be executed by the department, local agencies, or other appropriate entities.

(B) Criteria for eligible emergency levee work.

(C) Definition of an emergency levee site.

(D) Documentation requirements.

(E) Proposals for complying with the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) in an emergency.

(F) Stages of emergency response that may occur in various situations.

(3) Establish a multiagency emergency response team, consisting of representatives from the department, the board, the Department of Fish and Game, the California Conservation Corps, the Office of Emergency Services, the Federal Emergency Management Agency, the United States Army Corps of Engineers, and the United States Fish and Wildlife Service to advise on methods to ensure that levee emergencies will be resolved as quickly and safely as possible.

Comment. Section 12994 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 13264 (amended). Changes in waste discharge

SEC. ____ . Section 13264 of the Water Code is amended to read:

13264. (a) No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

(1) The issuance of waste discharge requirements pursuant to Section 13263.

(2) The expiration of 120 days after compliance with Section 13260 if any of the following applies:

(A) The project is not subject to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(B) The regional board is the lead agency for purposes of the California Environmental Quality Act, a negative declaration is required, and at least 105 days have expired since the regional board assumed lead agency responsibility.

(C) The regional board is the lead agency for the purposes of the California Environmental Quality Act, and environmental impact report or written documentation prepared to meet the requirements of Section 21080.5 of the ~~Public Resources~~ Environment Code is required, and at least one year has expired since the regional board assumed lead agency responsibility.

(D) The regional board is a responsible agency for purposes of the California Environmental Quality Act, and at least 90 days have expired since certification or approval of environmental documentation by the lead agency.

(3) The regional board's waiver pursuant to Section 13269.

(b) The Attorney General, at the request of a regional board, shall petition the superior court for the issuance of a temporary restraining order, preliminary injunction, or permanent injunction, or combination thereof, as may be appropriate, prohibiting any person who is violating or threatening to violate this section from doing any of the following, whichever is applicable:

(1) Discharging the waste or fluid.

(2) Making any material change in the discharge.

(3) Constructing the injection well.

Comment. Section 13264 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 13274 (amended). General waste discharge requirements

SEC. ____ . Section 13274 of the Water Code is amended to read:

13274. (a)(1) The state board or a regional board, upon receipt of applications for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, shall prescribe general waste discharge requirements for that sludge and those other solids. General waste discharge requirements shall replace individual waste discharge requirements for sewage sludge and other biological solids, and their prescription shall be considered to be a ministerial action.

(2) The general waste discharge requirements shall set minimum standards for agronomic applications of sewage sludge and other biological solids and the use of that sludge and those other solids as a soil amendment or fertilizer in agriculture, forestry, and surface mining reclamation, and may permit the transportation of that sludge and those other solids and the use of that sludge and those other solids at more than one site. The requirements shall include provisions to mitigate significant environmental impacts, potential soil erosion, odors, the degradation of surface water quality or fish or wildlife habitat, the accidental release of hazardous substances, and any potential hazard to the public health or safety.

(b) The state board or a regional board, in prescribing general waste discharge requirements pursuant to this section, shall comply with Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code and guidelines adopted pursuant to that division, and shall consult with the State Air Resources Board, the Department of Food and Agriculture, and the California Integrated Waste Management Board.

(c) The state board or a regional board may charge a reasonable fee to cover the costs incurred by the board in the administration of the application process relating to the general waste discharge requirements prescribed pursuant to this section.

(d) Notwithstanding any other provision of law, except as specified in subdivisions (f) to (i), inclusive, general waste discharge requirements prescribed by a regional board pursuant to this section supersede regulations adopted by any other state agency to regulate sewage sludge and other biological solids applied directly to agricultural lands at agronomic rates.

(e) The state board or a regional board shall review general waste discharge requirements for possible amendment upon the request of any state agency, including, but not limited to, the Department of Food and Agriculture and the State Department of Health Services, if the board determines that the request is based on new information.

(f) Nothing in this section is intended to affect the jurisdiction of the California Integrated Waste Management Board to regulate the handling of sewage sludge or other biological solids for composting, deposit in a landfill, or other use.

(g) Nothing in this section is intended to affect the jurisdiction of the State Air Resources Board or an air pollution control district or air quality management district to regulate the handling of sewage sludge or other biological solids for incineration.

(h) Nothing in this section is intended to affect the jurisdiction of the Department of Food and Agriculture Code in enforcing Sections 14591 and 14631 of the Food and Agriculture Code and any regulations adopted pursuant to those sections, regarding the handling of sewage sludge and other biological solids sold or used as fertilizer or as a soil amendment.

(i) Nothing in this section restricts the authority of a local government agency to regulate the application of sewage sludge and other biological solids to land within the jurisdiction of that agency, including, but not limited to, the planning authority of the Delta Protection Commission, the resource management plan of which is required to be implemented by local government general plans.

Comment. Section 13274 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 13389 (amended). Application of CEQA

SEC. _____. Section 13389 of the Water Code is amended to read:

13389. Neither the state board nor the regional boards shall be required to comply with the provisions of Chapter 3 (commencing with Section 21100) of Division ~~13~~ 3 of the ~~Public Resources~~ Environment Code prior to the adoption of any waste discharge requirement, except requirements for new sources as defined in the Federal Water Pollution Control Act or acts amendatory thereof or supplementary thereto.

Comment. Section 13389 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 13398.5 (amended). Duties of oversight agency

SEC. _____. Section 13398.5 of the Water Code is amended to read:

13398.5. The oversight agency shall do all of the following:

(a) Comply with the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) in connection with the review of any remediation plan.

(b) Provide an opportunity for public review of, and comment with regard to, the remediation plan.

(c) Disapprove, approve, or modify and approve a remediation plan at a public meeting.

Comment. Section 13398.5 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 13552.4 (amended). Recycled water for irrigation of residential landscaping

SEC. _____. Section 13552.4 of the Water Code is amended to read:

13552.4. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for irrigation of residential landscaping, if all of the following requirements are met:

(1) Recycled water, for this use, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) The irrigation systems are constructed in accordance with Chapter 3 (commencing with Section 60301) of Division 4 of Title 22 of the California Code Regulations.

(b) This section applies to both of the following:

(1) New subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of Health Services has approved the use of recycled water.

(2) Any residence that is retrofitted to permit the use of recycled water for landscape irrigation and for which the State Department of Health Services has approved the use of recycled water.

(c)(1) Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code does not apply to any project which only involves the repiping, redesign, or use of recycled water for irrigation of residential landscaping necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

Comment. Section 13552.4 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 13552.8 (amended). Recycled water in floor trap priming, cooling towers and air conditioning devices

SEC. _____. Section 13552.8 of the Water Code is amended to read:

13552.8. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water in floor trap priming, cooling towers, and air-conditioning devices, if all of the following requirements are met:

(1) Recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) If public exposure to aerosols, mist, or spray may occur, appropriate mist mitigation or mist control is provided, such as the use of mist arrestors or the addition of biocides to the water in accordance with criteria established pursuant to Section 13521.

(4) The person intending to use recycled water has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the public agency, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies to both of the following:

(1) New industrial facilities and subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of Health Services has approved the use of recycled water.

(2) Any structure that is retrofitted to permit the use of recycled water for floor traps, cooling towers, or air-conditioning devices, for which the State Department of Health Services has approved the use of recycled water.

(c)(1) Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code does not apply to any project which only involves the repiping, redesign, or use of recycled water for floor trap priming, cooling towers, or air-conditioning devices necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

Comment. Section 13552.8 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 13554 (amended). Recycled water for toilet and urinal flushing

SEC. _____. Section 13554 of the Water Code is amended to read:

13554. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for toilet and urinal flushing in structures, except a mental hospital or other facility operated by a public agency for the treatment of persons with mental disorders, if all of the following requirements are met:

(1) Recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) The public agency has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the use site, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies only to either of the following:

(1) New structures for which the building permit is issued on or after March 15, 1992, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1992.

(2) Any construction pursuant to subdivision (a) for which the State Department of Health Services has, prior to January 1, 1992, approved the use of recycled water.

(c) Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code does not apply to any project which only involves the repiping, redesign, or use of recycled water by a structure necessary to comply with a requirement issued by a public agency under subdivision (a). This exemption does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

Comment. Section 13554 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 55338 (amended). Water needs of California State Prison — Los Angeles County

SEC. _____. Section 55338 of the Water Code is amended to read:

55338. (a) The Department of Corrections and the Los Angeles County Waterworks District No. 4 shall enter into a contract for the district to meet the operational needs of the California State Prison--Los Angeles County for water, to be supplied to the district by the Antelope Valley-East Kern Water Agency.

(b) The Department of Corrections shall use the water supplied to it by the Los Angeles County Waterworks District No. 4 pursuant to subdivision (a) as its primary source of water and shall use the Antelope Valley groundwater basin only as a supplementary source of drinking water or as an emergency backup supply.

(c) Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code does not apply to any action undertaken pursuant to subdivision (a) or (b).

Comment. Section 55338 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 78648 (amended). Definitions

SEC. _____. Section 78648 of the Water Code is amended to read:

78648. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a)(1) "Eligible seawater intrusion control project" means a project which is all of the following:

(A) Necessary to protect groundwater that is (i) within a basin that is subject to a local groundwater management plan for which a review is completed pursuant to the California Environmental Quality Act (Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) and (ii) is threatened by seawater intrusion in an area where restrictions on groundwater pumping, a physical solution, or both, are necessary to prevent the destruction of, or irreparable injury to, groundwater quality.

(B) Is cost-effective. In the case of a project to provide a substitute water supply, the project shall be cost-effective as compared to the development of other new sources of water and shall include

requirements or measures adequate to ensure that the substitute supply will be used in lieu of previously established extractions or diversions of groundwater.

(C) Complies with applicable water quality standards, policies, and plans.

(2) Eligible projects may include, but are not limited to, water conservation, freshwater well injection, and substitution of groundwater pumping from local surface supplies.

(b) “Local agency” means any city, county, district, joint powers authority, or other political subdivision of the state involved in water management.

(c) “Subaccount” means the Seawater Intrusion Control Subaccount created by Section 78648.2.

Comment. Section 78648 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 78680.4 (amended). Definitions

SEC. _____. Section 78680.4 of the Water Code is amended to read:

78680.4. The following definitions govern the construction of this article:

(a) “Feasibility study” means a report on the feasibility of a project, dam, or reservoir. A feasibility study may include an environmental impact report prepared pursuant to Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(b) “Project” means any of the following:

(1) The construction of a conveyance facility, pumping facility, groundwater extraction facility, clear or ranney well, or facility for diversion from existing storage or conveyance facilities undertaken by a public agency for the diversion, storage, or distribution of water primarily for domestic, municipal, agricultural, industrial, recreation, or fish and wildlife mitigation and enhancement purposes.

(2) Fish and wildlife mitigation and enhancement measures undertaken by a public agency, including the acquisition of lands which may be necessary for the mitigation of significant impact on fish and wildlife resources resulting from the implementation of a project undertaken pursuant to paragraph (1).

(c) “Public agency” means any city, county, city and county, special district or other political subdivision of the state, including a joint powers entity created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, in a county of the 22nd class or any county having a smaller population than a county of the 22nd class on the date on which this division becomes effective.

Comment. Section 78680.4 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 78684.10 (amended). Expenditure of funds in account

SEC. _____. Section 78684.10 of the Water Code is amended to read:

78684.10. No funds in the account may be expended until all of the following conditions have been met:

(a) The final programmatic EIS/EIR has been certified by the state lead agency and a notice of determination has been issued as required by Division 13 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

(b) The identical final programmatic EIS/EIR has been filed by the federal lead agencies with the Environmental Protection Agency, the required notice has been published in the Federal Register, and there has been federal approval of the identical program approved by the state.

(c) A cost-sharing agreement has been entered into by the State of California and the United States, pursuant to which the United States agrees to share in the costs of eligible projects.

Comment. Section 78684.10 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Water Code § 78688 (amended). Applicable law

SEC. _____. Section 78688 of the Water Code is amended to read:

78688. Nothing in this division diminishes, or otherwise affects, the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment Code~~) or the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.)).

Comment. Section 78688 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

UNCODIFIED ACTS

Antelope Valley Storm Water Conservation and Flood Control District Act § 27 (amended). CEQA applicable

SEC. _____. Section 27 of the Antelope Valley Storm Water Conservation and Flood Control District Act (Section 1 of Chapter 764 of the Statutes of 1994) is amended to read:

Sec. 27. Nothing in this act is intended to exempt the activities, programs, or projects of the district from the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment Code~~) where that act is otherwise applicable.

Comment. Section 27 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Honey Lake Valley Groundwater Basin Act § 701 (amended). CEQA compliance

SEC. _____. Section 701 of the Honey Lake Valley Groundwater Basin Act (Chapter 1392 of the Statutes of 1989) is amended to read:

Sec. 701. If, upon receipt of the recommendations of its engineers, consultants, and staff, the board of directors determines that groundwater management activities may be necessary, the board of directors shall, after compliance with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment Code~~), give notice of and hold a hearing to receive evidence on the need for a program and on the form and scope of the management activities required. The requirement in this section for compliance with the California Environmental Quality Act does not, and shall not be construed to, limit compliance with that act for other discretionary actions by the board.

Comment. Section 701 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Mojave Water Agency Law § 15.4 (amended). Definitions

SEC. _____. Section 15.4 of the Mojave Water Agency Law (Section 2 of Chapter 518 of the Statutes of 1996) is amended to read:

Sec. 15.4. (a) Unless the context requires otherwise, the following definitions govern the construction of this section:

(1) “Affected lands” means lands that are affected by groundwater pollution or pollutants in soils that threaten to cause groundwater pollution and are in a location where the agency has implemented or proposes to implement a remediation plan.

(2) “Oversight agency” means either the State Water Resources Control Board or the appropriate regional water quality control board. “Remediation plan” means a plan to improve the quality of groundwater underlying lands within the jurisdiction of the agency that has been directly and adversely affected by groundwater pollution.

(b) Notwithstanding any other provision of law, if the agency has submitted a remediation plan to an oversight agency, the oversight agency has approved that remediation plan, and the agency has implemented the remediation plan, in accordance with this section, the agency shall not be deemed, based on the actions taken to implement the remediation plan, to be the owner or operator of any affected lands, or any structure, improvement, waste management unit, or facility on those affected lands, and shall not be deemed, based on the actions taken to implement the remediation plan, to be responsible for any discharge, or the results of any discharge, of pollutants on or from those affected lands or any structure, improvement, waste management unit, or facility on those affected lands.

(c) Except as provided in subdivision (d), and Chapter 5.5 (commencing with Section 13370) of the Water Code, the responsibilities of the agency are limited to the following:

(1) Submitting a remediation plan to an oversight agency for approval in accordance with subdivision (d).

(2) Implementing a remediation plan that has been approved by the oversight agency.

(3) If required by a remediation plan approved by the oversight agency, maintaining any structure, waste management unit, improvement, or other facility constructed, improved, or placed on the affected lands.

(4) Periodically monitoring and reporting as required by the oversight agency.

(5)(A) Determining if the remediation plan implemented by the agency has been effective to provide a substantial improvement in groundwater quality affected by the discharge or potential discharge of pollutants on or from affected lands.

(B) If the agency determines that the remediation plan implemented by the agency is not effective, the agency shall promptly report that determination to the oversight agency. If the agency or the oversight agency determines that the remediation plan implemented by the agency is not effective, the agency shall submit a modified remediation plan to the oversight agency that includes a proposal to improve the plan to make it effective, or a proposal to cease remedial activities on the affected lands and return those lands, including the groundwater quality on those lands, to a condition that approximates the quality that existed prior to commencing remedial activities. The agency shall implement the modified remediation plan as approved by the oversight agency.

(6) Notwithstanding any other provision of law, except as provided in Chapter 5.5 (commencing with Section 13370) of the Water Code, if the agency implements or has implemented the approved remediation plan and any modifications to the plan approved by the oversight agency, the agency, with regard to any discharge of pollutants that is the subject of the plan, shall not be required to achieve water quality objectives pursuant to, or to comply with other requirements of, the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or other laws that are administered by the State Water Resources Control Board or the regional water quality control boards, and shall not be subject to any enforcement actions pursuant to state law based on actions taken to implement the approved remediation plan, except for violations involving gross negligence, including reckless, willful, or wanton misconduct, or intentional misconduct by the agency.

(d) The remediation plan to be submitted by the agency to the oversight agency shall include all of the following:

(1) Identification of the affected lands that are the subject of the plan, including a legal description and the owner of record.

(2) Identification of the groundwater that is affected by discharges of pollutants on or from the affected lands.

(3) A description of the physical conditions of the affected lands that have had, or are having, an adverse effect on groundwater quality.

(4) A description of the practices, including system design and construction plans, and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse effects on groundwater quality and a schedule for implementing those practices.

(5) An analysis demonstrating that the implementation of the practices described in the plan have caused, or are expected to cause, a substantial improvement in groundwater quality for the identified groundwater.

(6) A description of monitoring or other assessment activities to be undertaken to evaluate the success of the implemented practices during and after implementation, including an assessment of baseline conditions.

(7) A budget and identified funding to pay for the implementation of the plan.

(8) Remediation goals and objectives.

(9) Contingency plans.

(10) A description of the agency's legal right to enter and conduct remedial activities.

(11) The signature of an authorized representative of the agency.

(12) Identification of the pollutants to be addressed by the plan.

(e) The oversight agency shall do all of the following:

(1) Comply with the requirements of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) in connection with the review of any remediation plan.

(2) Provide an opportunity for public review of, and comment with regard to, the remediation plan.

(3) Disapprove, approve, or modify and approve a remediation plan at a public meeting.

(f)(1) The oversight agency may approve the remediation plan if the oversight agency finds that there is substantial evidence in the record that the plan will substantially improve groundwater quality affected by discharges of pollutants on or from affected lands. The oversight agency may disapprove a remediation plan even if there is substantial evidence that the plan would improve the groundwater quality.

(2) The agency is not required to include in the remediation plan a plan to achieve water quality objectives, with regard to any discharge of pollutants that is the subject of the plan, to comply with other requirements of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), except for Chapter 5.5 (commencing with Section 13370) of Division 7 of the Water Code, or to comply with any other law that is administered by the state board or the regional boards, with regard to that discharge of pollutants.

(3) The oversight agency may approve a modification of an approved remediation plan to permit additional time for completing the remediation project or to otherwise modify the plan, after an opportunity for public comment.

(4) If the oversight agency determines that the agency is not implementing the approved remediation plan in substantial compliance with its terms, that oversight agency shall notify the agency of its determination, including the specific causes for that determination.

(5) If the oversight agency determines that the specific causes for the determination are not adequately addressed pursuant to paragraph (4), or if a compliance plan is not submitted to, and approved by, the oversight agency within 180 days from the date of the notification pursuant to paragraph (4), the oversight agency may determine that the agency is in violation of this section. If the agency is determined to be in violation of this section, the agency is not protected by the limitations on responsibility provided by this section for remediation of groundwater quality adversely affected by discharges of pollutants on or from affected lands and may be subject to any enforcement action authorized by law.

(g) This section has no effect on any of the following:

(1) The tort liability of the agency for personal injury or wrongful death.

(2) The liability of the agency based upon activities other than those undertaken in connection with the implementation of an approved remediation plan.

(3) The responsibilities of the owner of affected lands or other property that is the source of pollutants on affected lands or any other person responsible for activities that caused or permitted the discharge of pollutants.

(4) The liability of the agency for damages resulting from the agency's negligent implementation of the remediation plan.

Comment. Section 15.4 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Mono County Tri-Valley Groundwater Management District Act § 405 (amended). Advisory board

SEC. ____ Section 405 of the Mono County Tri-Valley Groundwater Management District Act (Section 1 of Chapter 844 of the Statutes of 1989) is amended to read:

Sec. 405. The advisory board shall exercise the following powers:

- (a) Advise the board on all matters included within the purposes and provisions of this act.
- (b) Independently comment on projects or other matters which may affect the district, whether in the context of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) or any other relevant proceeding.
- (c) Hold public hearings on matters affecting the district for the purpose of gathering evidence and making recommendations to the board.
- (d) Comment or initiate on rules and regulations affecting the district which may be adopted by the board.

Comment. Section 405 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Mono County Tri-Valley Groundwater Management District Act § 701 (amended). CEQA compliance

SEC. ____ Section 701 of the Mono County Tri-Valley Groundwater Management District Act (Section 1 of Chapter 844 of the Statutes of 1989) is amended to read:

Sec. 701. If, upon receipt of the recommendations of its engineers, consultants, and staff, or any of them, the board determines that groundwater management activities may be necessary, the board shall, after compliance with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), give notice of and hold a hearing to receive evidence and make findings on the need for such a program and on the form and scope of the management activities required. The requirement to comply with the California Environmental Quality Act does not, and shall not be construed to, limit compliance with that act for other discretionary actions by the board.

Comment. Section 701 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Ojai Basin Groundwater Management Agency Act § 701 (amended). CEQA compliance

SEC. ____ Section 701 of the Ojai Basin Groundwater Management Agency Act (Section 1 of Chapter 750 of the Statutes of 1991) is amended to read:

Sec. 701. If, after a noticed public hearing and consideration of any relevant investigations, studies, and evidence, including compliance with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), the board determines that groundwater management activities are necessary in order to improve or protect the quantity or quality of groundwater supplies within the basin, the board may, by ordinance, undertake any of the activities authorized by this article. The requirement in this section for compliance with the California Environmental Quality Act does not, and shall not be construed to, limit compliance with that act for other discretionary actions by the board.

Comment. Section 701 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Pajaro Valley Water Management Agency Act § 515 (amended). Project consistent with city and county general plans

SEC. ____ Section 515 of the Pajaro Valley Water Management Agency Act (Section 1 of Chapter 257 of the Statutes of 1984) is amended to read:

Sec. 515. Prior to approving any project, as defined in Section 21065 of the ~~Public Resources~~ Environment Code, the agency directors shall make a finding that the project is consistent with applicable city and county general plans.

Comment. Section 515 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Sacramento Area Flood Control Agency Act § 52 (amended). Agency priorities

SEC. _____. Section 52 of the Sacramento Area Flood Control Agency Act (Section 1 of Chapter 510 of the Statutes of 1990) is amended to read:

Sec. 52. Notwithstanding the purposes specified in the agreement, the agency shall have as its highest priority the protection of life, property, watercourses, watersheds, and public highways within its boundaries from damage from flood and storm waters. In addition, to the maximum extent economically feasible and consistent with its flood protection and flood management requirements and with state and federal agreements, the agency shall carry out its responsibilities in ways which provide for the optimum protection of the natural environment, especially riparian habitat and natural stream channels suitable for native plant and wildlife habitat and public recreation. Nothing in this act is intended to amend, modify, or alter the provisions of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) or any other state or federal laws whose purpose is to protect and preserve the natural environment.

Comment. Section 52 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Stanislaus County Flood Control Enabling Act § 104 (amended). Lead agency

SEC. _____. Section 104 of the Stanislaus County Flood Control Enabling Act (Section 1 of Chapter 421 of the Statutes of 1981) is amended to read:

Sec. 104. Unless otherwise agreed by the board of supervisors and the commission, the commission shall serve as lead agency, as defined in Section 21067 of the ~~Public Resources~~ Environment Code, and shall carry out the responsibilities of a lead agency under the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

Comment. Section 104 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Surprise Valley Groundwater Basin Act § 701 (amended). CEQA compliance

SEC. _____. Section 701 of the Surprise Valley Groundwater Basin Act (Section 1 of Chapter 698 of the Statutes of 1995) is amended to read:

701. If, upon receipt of the recommendations of its engineers, consultants, and staff, the board of directors determines that groundwater management activities may be necessary, the board of directors, after compliance with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), shall give notice of, and hold, a hearing to receive evidence on the need for a groundwater management program and on the form and scope of the management activities required. The requirement in this section for compliance with the California Environmental Quality Act does not, and shall not be construed to, limit compliance with the act for other discretionary actions by the board of directors.

Comment. Section 701 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.

Willow Creek Valley Groundwater Basin Act § 701 (amended). CEQA compliance

SEC. ____ . Section 701 of the Willow Creek Valley Groundwater Basin Act (Section 1 of Chapter 1181 of the Statutes of 1993) is amended to read:

Sec. 701. If, upon receipt of the recommendations of its engineers, consultants, and staff, the board of directors determines that groundwater management activities may be necessary, the board of directors shall, after compliance with the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources Environment~~ Code), give notice of, and hold, a hearing to receive evidence on the need for a program and on the form and scope of the management activities required. The requirement in this section for compliance with the California Environmental Quality Act does not affect any requirement under existing law to comply with that act in connection with other discretionary actions undertaken by the board.

Comment. Section 701 is amended to reflect relocation of the California Environmental Quality Act from Division 13 (commencing with Section 21000) of the Public Resources Code to Division 3 (commencing with Section 21000) of the Environment Code.